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Supreme Court, U.S.
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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

WANDA SPANN
CHARLES SPANN

Petitioners,

v.

COBB COUNTY SUPERIOR COURT JUDGES, HOWARD "SKIP" CHESSHIRE, DAVID HANKERSON, and, FRANK COX, INDIVIDUALLY AND IN HIS CAPACITY AS COBB COUNTY CHIEF MAGISTRATE JUDGE

Respondents.

On Petitian for Writ of Certiorari
To the Supreme Court of Georgia

WANDA SPANN/CHARLES SPANN
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Petitioners, Pro Se

QUESTIONS PRESENTED

Whether the Supreme Court of Georgia erred in denying request for certiorari to the Court of Appeals of Georgia in an action where deprivation of due process was shown in the arbitrary, termination of a twenty year Director of County Pretrial Services who suffered loss of employment and retirement benefits due to petty political usurpations by a corrupt and venal county system, and the indifferent dereliction of duty by an unconcerned judiciary.

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2. Davis v. Passman, 442 U.S. 228, 99 S.Ct. 2264, 19 Fair Empl.Prac.Cas. (BNA) 1390, 19 Empl. Prac. Dec. P 9241, 60 L.Ed.2d 846 (1979)

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4. Brownlee v. Williams, 233 Ga. 548, 212 S.E.2d 359 (1975)

5. City of Atlanta v. Mahony, 162 Ga.App. 5, 289 S.E.2d 250(1982)

6. Batavias v. Kerr-McGee, 267 Ga. App. 848 (2004)

7. McCall v. Henry Medical Center, Inc. 250 Ga. App. 679, 551 S.E.2d 739

JURISDICTION

The Supreme Court of Georgia entered judgment on January 12, 2007. This court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF CASE

i. Factual Background and Proceedings Below.

Here I am going to beg for the Court's indulgence. I have had the great misfortune as a layperson of having to contend with the political/legal machine of the State of Georgia from the local politicians of the State of Georgia to the office of the Georgia Attorney General. I cannot compete as an attorney and no Georgia Attorney has proved willing to buck the system to assist me. Therefore I will not attempt to approach this Court as an attorney but rather as a person. I will tell my story in the best fashion that I am able in the hopes that **truth** and **right** may prevail and that fairness and equity will overcome, at this exalted level, mere legalistic formalities.

I will first tell the story (The truth), so that this Court may know and understand what really happened and why you are now being approached by me. I will then do my best, as a layperson to provide some legalistic argument. I will append to this Petition two documents. The first is my Amended Brief as submitted to the Court of Appeals of Georgia (and dismissal). This document explains, as best I can the factual and procedural background of my claim. Please forgive the awkwardness of the language as my husband and I thought we were required to write in the third person. But, again, what is said is true. I also attach my Petition for Writ of Certiorari to the Supreme Court of Georgia (and dismissal) which also speaks the truth.

I will begin by telling my story. I apologize to the Court for getting personal but I cannot come up with any other way to make this real. I am a real person. I have been truly wronged to the extent that important constitution protections have been taken from me and my life's work, five years of salary and my retirement have also been

stolen from me. I have been violated and I seek the aid and guidance of this high Court of last resort. I ask the Court to read forward and be persuaded.

THE STORY OF WANDA SPANN

I am Wanda Stokes Spann. Born January 25, 1960 in Tifton, Georgia under the Gray/Baisden family where I spent most of my early years. Both families were and are pillars in the community. In 1960's my family moved to Detroit, Michigan where I continued my formal education. I graduated from Cooley High School in 1976 at age 16, and entered Michigan State University in the Fall. In May of 1980 I graduated from Michigan State University with double major of Criminal Justice and Political Science. I was also on the Dean's List twice and received academic awards.

After graduating, I returned to Georgia where I was hired as a Releasee Supervisor for the Cobb County Pretrial Court Agency. After only three years I was appointed Interim Director due to the termination of the Director in 1983. In June of 1983, with just under three years of employment, the Cobb County Superior Court Judges appointed me Director of the Agency, making me Cobb County's first African-American Judicial Appointee, first African American Department Head, and the youngest department head (23 years of age) ever hired by the Cobb County, Georgia Government. Prior to my wrongful termination by Chief Magistrate Judge Frank Cox in May 2003, I had been an employee of Cobb County Pretrial Court Services for 23 years. In my 20 years as director of Pretrial, I saved the county millions of dollars each year, and received numerous managerial awards, and community service recognition.

Like other Pretrial Release Programs operating in counties throughout the state of Georgia, Cobb County Pretrial Court Services operates under the jurisdictional authority

of the Cobb County Superior Court Judges Council pursuant to the Uniform Superior Court Rules of Georgia (Rules 27 thru 27.5). These Rules were not in existence until 1985. They were fashioned word for word after the original Cobb County Superior Court Order that established the department in 1973. Cobb County Pretrial Court Services was the first in the history of the state and served as a model for the state.
Also in 1985, a domestic order was issued by the Superior Court Judges for Pretrial to have an administrative attachment to the Chief Magistrate, who would supervise the department as the Superior Court Administrator had done since 1983. This order came about just weeks after Skip Chesshire was appointed Superior Court Administrator and Judge James Bodiford was named Chief Magistrate Judge. Like me, they were also appointed by the Superior Court Judges. Pretrial maintained a separate entity under the Cobb Superior Court Judges Council.

As it was explained to me by Judge Bodiford, the 1985 Order did not include Pretrial being made an office of the Magistrate Court nor did it give the Chief Magistrate authority over the office. The hiring and firing of the director rested solely with the Superior Court Judges Council. This was confirmed by Judge Bodiford on numerous occasions when I asked Judge Bodiford if he would lift a hiring freeze that had been placed on the office by the Superior Court in 1984, as it had created a hardship. Then Chief Magistrate Judge Bodiford said that he was unable to do this because the department was still under the Superior Court Judges and they would have to lift the freeze. Later he would write periodic notes stating the Superior Court Judges had given me permission to hire your fourth person, fifth person, etc.

Throughout the years Chesshire (the Superior Court Administrator) would take personnel or equipment from my department without my knowledge. When I went to Judge

Bodiford for help, he told me there was nothing he could do because Skip was the Superior Court Administrator and that the Superior Court Judges had full authority over the office and they alone had the power to change things for Pretrial.

In the late 1980's or early 1990's Judge Bodiford asked me to write a letter on his behalf, as he was trying to advance to the State Court bench. I made a mistake in the letter when I wrote about Pretrial Services as a function of Magistrate Court. When Judge Bodiford proofread it, he struck the word "Magistrate" and wrote in the word "Superior."

In the year 2000 as Magistrate Elect, **Cox told others that he "wanted her (Mrs. Spann's) job" when he takes office in 2001.** Two Magistrate Court employees said they were told this by an employee of the District Attorney's office. I would later learn that Cox, Bodiford, Chesshire and Staley were all friends who earlier in their careers were very social with one another.

An unpleasant conversation took place between me and Magistrate Court Administrator Bobbie Ely in early 2001, at which time Ms. Ely stated to me that Judge Bodiford and Superior Court Administrator Skip Chesshire told them that Pretrial Court Services Office was under Judge Cox's and her (Ms. Ely's) authority. I disputed this by letting her know that the department was an independent County department with its own organization number and budget, and had only an administrative attachment to the Chief Magistrate as a supervisor reporting to the Superior Court Judges under a 1985 domestic court order signed by the Superior Court Judges. I explained that the **authority** of the department fell under the Cobb Superior Court Judges per the Uniform Superior Court Rules of Georgia.

In late January 2003, Judge Cox, who had held office since January 2001, gave me an, **"Exceeds Standards"** performance rating (highest performance rating possible) while simultaneously conducting a clandestine conspiracy

to have me removed from office. Just a month before, without my knowledge, he had the Human Resources office collecting statistics on employee turnover in my office. He would later use this as a ground for my dismissal. Incidentally, Cox in his first 2 years as Chief Magistrate judge has fired more employees in the history of the Magistrate Court, and more employees have left the Court under his leadership. Both Cox and his court administrator Bobbie Ely have come under fire in the local newspaper for this mismanagement.

Around August 2002, without my knowledge, Cox had some of my employees keeping track of my every move. This action undermined my authority. The atmosphere he created by this action he would later use to launch an administrative investigation against me.

He engaged in several unethical practices such as accepting and reading a letter I had written to a Superior Court Judge asking for help as a result of his constant harassment. He used this knowledge to cancel a meeting I had scheduled with the Chief Judge of Superior Court, by telling her that he had me under investigation. The letter I wrote was given to him by my administrative assistant Janet Lindemann who was directed by me to give it to Superior Court Judge Adele Grubbs. I did not learn of Lindemann's actions until I received copies of the investigation he launched against me through an Open Records Request.

Judge Cox also allowed his employees whose jobs were totally unrelated to my office, to access my computer from remote sites in order to invade my privacy. Because the employee could only obtain part of the first sentence I was writing, he had someone from the Information Services office to down load the information for him.

As Pretrial Services Director, I was appointed by and served at the pleasure of the Cobb County Superior Court Judges Council, pursuant to Rule 27 of the Uniform Superior Court Rules of Georgia. Neither I nor my department had ever worked under the Magistrate Court in any capacity.

After two years of complaining about Magistrate Cox and certain Magistrates working for him releasing accused child molesters, armed robbery defendants, and other serious offenders with no court supervision, my employment was terminated by Cox in May, 2003. Prior to my termination, I had also complained about work place harassment by Cox as well.

In January of 2003, Judge Cox rehired a former employee of Pretrial, Sara Henderson, who was not eligible for rehire with the County. She was ineligible, because she quit Pretrial in September, 2003 without notice after I had spoken to her earlier in the day about her attendance record. That afternoon, this employee charged me, in a confrontational way, while I was returning from lunch. Ms. Henderson had been a problem since she came to work in our office in mid 2000. Cox hired her to work in his office as a technician, but has since promoted her to my position as head of Pretrial Services once he took the office illegally. This is the essence of Judge Cox – an individual who thrives on hurting others; rendering injustices, dishonesty, hatred and spite.

Judge Cox's plans were finally revealed to me in a memo on March 5, 2003, when he called me into his conference room and stripped me of all of my supervisory authority, budget, employees, payroll, hiring, firing and disciplinary authority, office space, freedom of speech, etc. Present at this meeting was Bobbie Ely his court administrator, who he ordered me to hand everything over to. This was not authorized by the

Superior Court, was harassing in nature and against my civil rights.

The purpose of the March 5, 2003 memo was also retaliation by Judge Cox for accompanying my division manager, a Hispanic female (Matty Armbruster), to the EEOC in February of 2003 to lodge a racial harassment complaint against Judge Cox. Armbruster had been forced to sign a letter drafted by Cox on a murder case that contained false information, was not allowed to use the break room, and stated that Judge Cox had been rude to her and had thrown her out of his office for no reason.
Judge Cox sent me to various classes designed to degrade me and lower my self-esteem. He sent me to a 3 day class in Gwinnett County entitled, "Seven Habits of Highly Effective People." I noticed that the other persons in attendance appeared to have mental and/or emotional challenges. I was appalled that he would force me to participate in something like this, but I do know of others working for him who may benefited from it.

I was even required to attend a class on anger management, and sat there all the while thinking, "Why am I here?" Why did he not send the two employees who came to my office and verbally attacked me? (Lindemann and Henderson)
Judge Cox also sent me to a class titled "Building Effective Teams." I really found this to be ironic after receiving the results of the "investigation" and thought to myself, how could I have effectively built my team, because behind my back, using my own employees, Judge Cox was conspiring to tear my team down. I could have taken that class every day for the next ten years, and it would not have made a difference because he was busy behind the scene taking us all down.
Judge Cox, using other people, went to great lengths to discredit me and to tarnish my reputation, work record, and years of non-wavering dedication, hard work, and

loyalty to members of the Cobb judiciary. I stand firm and diligent in my pursuit to see that this type of injustice will never be imposed on any human being in the future.

In 2003, while trying to terminate me, Judge Cox called on Belinda Brock to provide him with her medical records in an effort to accuse me of causing her depression. Belinda Brock was my recently retired Assistant Director and the mother of Cox's secretary. He would also have other employees who were disgruntled or seeking to "move up," add "fuel to the fire," by saying I caused them "emotional distress." Employees, who had positive things to say about me, were not included in Cox's so-called "administrative investigation."

In the 2005 deposition, I questioned Judge Cox about wrongfully using Belinda Brock's medical record of depression to build subsequent false allegations against me by other people; rewarding some of these employees with promotions and pay raises, including Brock's daughter, Tracie Grabarkewitz.

Cox admitted in the deposition that after I was terminated, he eventually became aware that Brock had problems dating years back, for which she had received mental health treatment. As stated earlier, Brock's daughter, Tracie, was given a pay raise by Cox shortly after my termination. In the deposition, he characterizes her raise as a "cost of living increase."

Other employees who lied for Judge Cox and benefited include, Janet Lindemann, Sara Henderson, and Anita Lingerfelt. Lindemann was promoted from a secretarial position to Magistrate Court Mediation Coordinator. The position requires a 4 year degree which Lindemann does not hold. Henderson was promoted from a low-level court-clerk position to Pretrial Manager; and Lingerfelt was

promoted to a high level administrative position in Pretrial Services.

Judge Cox routinely directs employees to do his "dirty work" against others. While he was harassing me openly, he secretly had employees Janet Lindemann and Anita Lingerfelt spying on me. There is ample evidence of this throughout Cox's deposition. I questioned him in the deposition about his habit of having employees to document managers and judges' every move. I asked him if he had ever instructed Tracie Grabarkewitz to keep up with the 'goings and comings' of Magistrate Judge Joan V. Bloom. He replied, "At one point in time I did do that."

Also regarding the mistreatment of Judge Bloom, Cox once forced her to change a decision she made on the bench, whereby she ruled against his friend attorney Joel Pugh's client. In open court, Pugh told Bloom he was "going straight to Frank" (Cox). He immediately left the courtroom and headed to Judge Cox's office. Judge Bloom ran out of the courtroom behind Pugh. With her robe still on, she and Pugh entered Cox's office. Cox directed her to rule in Pugh's favor. Incidentally, when Cox resigned his position as Assistant District Attorney in 2000 to run for Chief Magistrate, he worked as an attorney in Joel Pugh's office until after the election. Also, Pugh was a major contributor to Judge Cox's campaign.

Magistrate Judges are often called upon to officiate private wedding ceremonies, and are compensated by the parties. The requests were made through Judge Cox's secretary, who also assigned a Magistrate to preside. Secretly, Judge Cox instructed Grabarkewitz not to assign any wedding engagements to Magistrate Judge William Brewer. Cox was also questioned about this incident during the 2005 deposition, and admitted to his actions.

In the previously mentioned March 5, 2003 Memo, whereby Judge Cox told me that Pretrial Services would no longer operate as an independent unit, Cox directed me to discuss with him any invitations I received for speaking engagements before accepting, because he "may elect to accompany" me "to some of the events." Under oath, I asked Judge Cox what was the purpose of this. He stated, "As an elected official, I may decide to go to some organization or event with you so I can meet with potential voters and have that opportunity if I felt like it was politically advantageous for me to do so."

Judge Cox said he placed me under investigation by the County Attorney's Office on March 19, 2003 because I fired Janet Lindemann; however, the investigation and his own words revealed that he had been trying to take over my office for some time. He created a hostile climate against me with my employees by getting them to keep journals on me. These journals were comprised of their opinions of negative things about me. One example is that of an employee that had a meeting with him about me. Afterwards she wrote, "If looks could kill..." I had no knowledge of her conversation, and was unaware at that time of her keeping the journal, and had not had any type of controversy with this individual. He furthered this hostile environment by telling my employees that I had no authority over them, which is what lead to Lindemann approaching me in a hostile and aggressive manner. Lindemann had approached me earlier that morning in a very hostile and aggressive manner. She had been warned about this type of behavior the previous week when she approached the division manager in the same way. I told her after the incident with the division manager that she would be dismissed if her conduct did not improve. Lindemann, a secretary was still on employment probation, as she had only been employed in our office 7 months. I was not aware that Lindemann had a relationship with Judge Cox.

Cox placed me and my division manager under suspension for 10 days (later extended 2 months), placed us under house arrest by not allowing us to leave our homes without his permission, changed the locks on the front office door, and went into the office and announced to the employees that we were under investigation and had been for "awhile."
Cox allowed Lindemann to return to work and placed her in charge of the office. Lindemann was approving inmates for release from jail when she had no experience or training in this area.
The results of the investigation revealed that Lindemann had been told by Cox that I could not fire her, which explains her conduct. Further, Lindemann was the employee who gave Cox the confidential letter I had written to Superior Court Judge Adele Grubbs. She had also been secretly communicating with him while she was at home "sick" for 2 days. When she returned to work after being out sick for two days, she came in and verbally abused me in the presence of other employees. I fired her and was later called into Cox's Office and was suspended.

I was placed on Administrative Leave while he and the County Attorney conducted a, "Witch Hunt/Railroad" they called an investigation. The attorney assigned to conduct the investigation was Deborah Dance. She is the same person that Cox had to sit in on a meeting in February 2003 after the Personnel Office informed them of my complaint that Cox was harassing me. In that meeting she tried to convince me that she was there to help me. I told her that she was there to represent Judge Cox. I was called into this meeting without any forewarning.

During her investigation she used the Magistrate Court Administrator Bobbie Ely to assist her in the investigation. Ms. Ely was very controlling and for a long time wanted to stretch her authority by taking over my office. She also

used the person I terminated (Janet Lindemann) to assist with the investigation.

Mrs. Ely conducted several interviews with several of my past employees that were disgruntled. Ely's interviews were not taped. Only summaries of the interviews were made by Ely and turned over to the County Attorney Deborah Dance.
Dance also conducted interviews that were taped; however the summaries she made did not accurately reflect what the persons said. She "dangled a carrot" in front of one of my employees who was studying for the bar by suggesting he consider working for the County Attorney's Office. (Quid Pro Quo) This was done on tape prior to the start of the interview. She also asked many leading questions to get the answers she wanted.

I was also accused of, unjustifiable firing of employees, and having a high turnover. My office consisted of only ten employees including myself, to serve the entire judicial circuit (Superior, State, and Magistrate Courts, District Attorney's, Solicitor's and Sheriff's Office).

In my 20 years as Director, I have fired a total of eight to ten employees all of which were approved by the Cobb County Personnel Department and/or the Cobb County Attorney's Office. No employees had been fired by me during Cox's tenure other than Lindemann. Two employees were fired for theft, one for misuse of county property (driving a county vehicle without permission for personal use and without a license), and another for drinking on duty and hit and run. He also counted persons who retired or transferred to other departments as turnover.

Judge Cox has been in office since 2001 and has lost over thirty employees, many of whom were terminated. If you count those that have retired, transferred or left his office, the combined would be an estimated forty to fifty

employees. His office consists of approximately 50 people. These are only a few of a long list of petty accusations and lies that were piled on me in an attempt to justify this "job robbery."

Among the many accusations, Cox alleges that I mistreated my employees. This is not true as I have always been courteous to everyone, especially my employees. I have counseled and consoled them, have obtained salary upgrades for them, and have always treated them with respect; however, Cox abused his power by turning several of them against me, including the division manager, Matty Armbruster. In exchange for getting her job back, she recanted her entire testimony. Her job was the only reward she received, because Cox demoted her upon her return even though she was exonerated of any wrongdoing. He now has her reporting to Sara Henderson, the person Armbruster did not recommend for rehire.

As mentioned earlier, I fired Janet Lindemann for insubordination. Janet Lindemann was part of a plot to take my job that Cox had been orchestrating for several months without my knowledge. Documents to support this statement are contained in the investigation conducted by the Cobb County Attorney's Office. Cox ascertained that my version of the incident could not be corroborated. This was not the case. There were two employees who I personally spoke with after the incident who confirmed what took place. Also, Matty Armbruster supplied the County Attorney with the name of a citizen who also witnessed the incident. However, the citizen was never contacted.

Further, Cox's March 5, 2003 directives to me were not authorized by the Superior Court Judges or the Uniform Superior Court Rules of Georgia, were harassing in nature contrary to employment laws, and had not gone into effect at the time Lindemann was dismissed. Cox did not take over my office until after he suspended me. At that time he

began taking everything, including office furniture. Many of the Superior Court Judges were appalled at his conduct, especially after they had given him instructions in the March 18, 2002 meeting not to take any action against me.

On March 19, Chief Superior Court Judge Mary Staley sent Cox a memo reiterating his authority to **supervise** the department. However, the letter did not indicate that he could strip me of my duties, authority, office space, etc.
I addition to suffering humiliation and embarrassment from the unwarranted, lengthy and "confining" suspension, I was also subjected to degrading training during this period. For example, Judge Cox ordered me to attend a class in Gwinnett County; three days in a row entitled "7 Habits of Highly Effective People." I had to drive over 120 miles each day, leaving my home at 5:00am each morning in order to arrive at class by 8:00 am. The other students in the class clearly had emotional problems and I certainly did not belong there. I was under a great deal of pressure for the entire 2 months, and had to be placed on a heart monitor twice after undergoing a battery of tests by cardiovascular surgeons. I had never experienced heart problems before. During one of my visits to the doctor, the County Attorney's secretary called me on my cell phone and demanded that I report to their office at once. When I explained that I was undergoing a battery of tests, she demanded that I put a nurse on the telephone to verify my whereabouts. Additionally, Judge Cox had me evaluated by a county paid psychologist who did nothing but badger and accuse me for several hours. Cox also had me to participate in an anger management class which I did not need. This was done to further humiliate me.

Although I knew that I was innocent and had not done anything to warrant this mistreatment, I complied because I was told that I would be terminated if I did not; however, as you can see, I was terminated anyway. My termination

was his plan from the beginning. The training and other delays were designed to buy time.

I am fighting a government with an almost unlimited amount of resources. They have placed so much garbage in my employment file that I feel that I will never be able to work anywhere. They hired outside attorneys to fight against my receiving unemployment benefits even though my personnel records show that I am, "Eligible for rehire." I was not able to receive employment compensation because of the lies told by Judge Cox at the hearings, saying he had authority over Pretrial. The same attorney was hired to fight against my complaint with the EEOC and used the EEOC complaint to lock down the Superior Court Judges who supported me. This attorney specializes in employment issues.

I requested a right to sue letter from the EEOC after learning that the Chief Superior Court Judge listed in the EEOC complaint derailed the investigation by telling the EEOC Investigator that the other Superior Court Judges were not going to talk with the investigator, and that their attorney will send a letter stating the same. I have also learned that some of the judges were not aware that this was done. One said that they never told her that they would not talk to the investigator; and would have answered questions about my termination. These same judges would have also told the investigator that Judge Cox did not have the authority to fire me. This same conduct if done by any other citizen would have been considered as interference with a federal investigation.

I also sent Judge Staley a letter requesting that the Superior Court Judges place Pretrial Services back under the supervision of the Superior Court Administrator as it had been prior to 1985. I later found that the letter had been given to Judge Cox by Ms. Lindemann before she was

fired. Judge Staley was also corresponding with Cox. I was not aware of this at the time.

Superior Court Judge Mary Staley was involved in my illegal termination. From every indication, it is apparent that she may have gotten herself involved in exchange for favorable decisions made by the Magistrate Court to benefit a family member. The conduct of Judge Staley was highly unethical and could also be considered criminal.

The Superior Court Judges Council rotates the Chief Judge position every two years, based on seniority. Judge Staley presided in the Chief Judge post from January, 2003 until December, 2004. After I was terminated by Judge Cox, Judge Staley refused to allow me to appeal to the Superior Court Judges Council. She advised the other judges that the case was "in litigation," and that she had contacted the State Attorney General's Office who advised them not to speak with me because of the pending "litigation." Judge Staley lied, as there was no litigation at that time. She lied to the other Superior Court Judges and she also lied to the Attorney General's Office.

When I eventually filed a complaint in the U.S. District Court in Mid- 2004, I was taken aback when I read the contents of a sworn affidavit of Superior Court Administrator, Howard "Skip" Chesshire, and correspondence to Judge Cox from Judge Staley; all attached to the Defendants' answer. The documents were filed in the United States District Court in Atlanta, and every one of them contained false statements that were detrimental to the outcome of my case and also obstructed justice.

In the Chesshire Affidavit, Chesshire stated in paragraph 6, that Pretrial Court Services had been transferred to the Chief Magistrate Judge in 1985, pursuant to Uniform Superior Court Rule 1.2 (b) and with the approval of the

Georgia Supreme Court. Pretrial Services had never operated under the Magistrate Court. To prove it, I met with Georgia Supreme Court Clerk Sherie Welch, who provided me with a list of all approved changes to the Uniform Superior Court Rules since 1985. Cobb County was not on the list.

Ms. Welch forwarded a letter to me, dated June 16, 2005. In the letter, she stated all the Justices had reviewed the document, and all agreed to maintain the court's policy of only certifying what it has. The so-called 1985 order referenced in the Chesshire Affidavit does not exist in the Georgia Supreme Court. Therefore, there was no compliance with Uniform Superior Court Rule 1.2 (b) as indicated in the Chesshire Affidavit filed in Federal Court. Cox had no authority over my job or office, because the Georgia Supreme Court has never approved any such arrangement. The Chesshire Affidavit was false. In an unrelated matter, Chesshire retired during a sexual harassment investigation against him which alleged sexual misconduct with subordinate employees over a 20-year period.

Judge Mary Staley's correspondence to Judge Cox contained the same false information. Cox used the March 19, 2003 memo from Staley to place me under supervision/house arrest/investigation that same day. The May 21, 2003 letter to Cox from Judge Staley was used by Cox to terminate my employment the following day.

On June 20, 2005, I deposed Skip Chesshire, at which time I questioned him about his affidavit. When Chesshire continued to have trouble answering even minor questions about his affidavit, I asked him how he came about writing it. To my surprise, he answered, "I didn't write it. Judge Staley wrote it." I asked him if Staley had also signed his name to the document, he replied "No, she didn't sign my name to it." Chesshire affirmed Staley wrote it and he

signed it. Chesshire went on to reveal that Judge Staley's administrative assistant, Charlotte Rooks, notarized the affidavit.

When I asked Chesshire, if everything pertaining to his affidavit was done in Judge Staley's office, he replied, "Yes." Judge Staley engaged in unethical conduct by misusing two subordinate employees, Chesshire and Rooks. Staley had Chesshire sign an affidavit she knew, or should have known was false, and also had Rooks, her assistant, to notarize the false statements. I believe Judge Staley's submission of these documents into the Federal Court case was criminal.

Although there are many fabrications contained in the Chesshire affidavit the following statement was certainly untrue:
"The Superior Court Judges Council is not an entity that has the ability to hire and fire employees." Not only does the council have the authority to hire and fire the Pretrial Services Director, the council hires and fires the Superior Court Administrator. The council hired Chesshire. In his deposition, Chesshire admitted the Superior Court Judges hired him. Chesshire stated, "They voted. They told me I was hired. They voted and they hired me. I interviewed for the job. I didn't know about any rule."

An article appearing in *The Atlanta Journal-Constitution (AJC)* on February 29, 2008, also proved the statement in the Chesshire Affidavit regarding the inability of the Superior Court Judges to hire and fire employees as false. Chesshire abruptly retired after female court workers notified the Superior Court Judges and other county officials of sexual misconduct by Chesshire. In the *AJC* article, the State Attorney General's Office affirmed the Superior Court Judges had employed Howard "Skip" Chesshire as their court administrator since 1985. When Judge Staley wrote the Federal Affidavit in Chesshire's

name, she knew both Chesshire and I worked for the Superior Court Judges.
After learning from Chesshire that Judge Staley authored his affidavit, I petitioned the court to depose Staley to enable her to confirm or deny Chesshire's statement that she actually wrote the affidavit. Judge Staley fought the motion, stating she was a "high level government official" and "should not be deposed," despite the fact she was deposed in a previous Federal case, Rolfe v. Staley, a sexual harassment case filed against Judge Staley, her father in-law, and Skip Chesshire. If Staley had nothing to hide, she should have had no problem answering questions regarding the Chesshire affidavit, as well as any questions pertaining to any involvement she may or may not have had in my employment termination.

I would not learn until 2007, what may have been Judge Staley's motivation in assisting Judge Cox in my employment termination. Judge Staley's sister, a principal at a local school, was arrested and charged with forgery stemming from false affidavits she wrote in a 2003 divorce case in the names of other people without their knowledge. I believe Judge Staley helped Cox take my job for favors detrimental to her brother-in-law and beneficial to her sister. Judge Staley's brother-in-law was arrested on domestic warrants and held without bond or a substantially high bond by the Magistrate Court. Judge Staley testified against her brother in-law at his bond hearing. Judge Staley's brother in-law's negative contact with the criminal justice system (in the Magistrate Court) ran simultaneously with the period that Cox harassed and terminated me.
At least four Superior Court Judges have said Judge Cox did not have the authority to terminate my employment. Judge Staley has yet to come forward in an effort to clear up written misinformation she has allowed to go through both the Federal and State Court Systems.

Her actions would lead anyone to question the integrity of her court. What else has she lied about? How many other people has she hurt over the years? She seems to have no regard for the truth, and has yet to face any consequences for her actions! Further, her abuse of power in the misuse of her employees was highly improper.

ARGUMENT
ARGUMENT

I. The trial court erred by finding that the Council of Superior Court Judges enjoyed immunity from suit for actions taken in a ministerial function which should have subjected them to injunctive claims.

My claim was adjudicated on summary judgment on the basis of claimed immunity. That claim was made in bad faith! The law is, as everyone involved at every level has known, that the immunity does not attach to ministerial actions and afford them protection from actions as in the nature of mandamus that would have required the judges to rightfully use their power to reinstate me and correct the wrongs done. This has been addressed in the two attachments to this petition.

II. The Trial Court erred by assigning res judicata against a claim brought in a claim brought in an ancillary Federal title VII case wherein the U.S. District Court declined to exercise jurisdiction over a tortuous interference with contract claim and did not reach the merits of the claim.

The United States District Court did not exercise its pendent jurisdiction as the federal claim under Title VII did not lie. The "discrimination" against me was more personal than racial so my title VII claim did not survive. There was no decision on my state tortuous interference with contract/employment claim and therefore no *res judicata* attached. Unfortunately, it was more convenient for the

Georgia Courts and Attorney General to ignore the facts, the law, and the truth to allow indifference to prevail and contributions to flow unabated.

III. The Trial Court erred in failing to allow discovery procedures prior to entertaining summary judgment arguments.

This is detailed in the attachments. The timing is very peculiar and it must be noticed that conflicting Orders seem to have been entered as if there were two authors and the Order of the visiting judge authorizing discovery had been actually provided by that judge and that the conflicting order came from somewhere else. A close reading demands the inescapable conclusion that something wrong was perpetrated and allowed to stand rather than rock the boat.

IV. The Trial Court erred in sanctioning false affidavits concerning the ratification of falsely alleged exceptions to the Georgia Uniform Superior Court rules prepared and promulgated by one of the Superior Court Judges

This cannot be denied. My Petition to the Supreme Court of Georgia shows the truth. The Supreme Court of Georgia **never** ratified any departure from the Uniform Superior Court Rules. What was done to me was clearly illegal and wrong.

CONCLUSION

This Court is requested to "flex its muscle." This court has inherent power, and I posit a duty, far in excess of mere review. I come to this Court for vindication. I suggest that if this Court were to merely state that "serious concerns have been brought forward which if investigated by this court may well reveal the propriety of further proceedings," and instruct the parties to come to the table in good faith within ninety days to resolve their issues or failing to do so

further inquiry and submissions will be required, that justice would be accomplished.

In these days the courts are the last bastion of hope for the people. This Court is requested to exercise its power, not to artificially limit itself, and to provide justice for Wanda Spann.

I declare under penalty of perjury that the foregoing is true and correct

Respectfully submitted this 10th day of April, 2009.

WANDA SPANN
2838 Crestwicke Dr.
Kennesaw, Georgia 30152
(770) 426-9475

Petitioner, Pro Se

Charles Spann, Pro Se
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Petitioner, Pro Se

IN THE SUPREME COURT
OF THE UNITED STATES

WANDA SPANN, and	§	
CHARLES SPANN,	§	
	§	
Petitioners,	§	
	§	PETITION FOR
CERTIORARI		
-versus	§	
	§	NUMBER:
_____		
COBB COUNTY SUPERIOR	§	
COURT JUDGES, et al.,	§	
	§	
Respondents,	§	
_____	§	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Petition for Certiorari upon the opposing parties via First Class United States Mail with sufficient postage attached, to:

Steffanie Walke Morrison. **George M. Weaver**
Office of the Attorney General **Hollberg & Weaver, LLP**
40 Capitol Square, SW **2941 Piedmont Rd., Ste. C,**
Atlanta, GA 30334-1300 **Atlanta, Georgia 30305**
404-656-3380

This _____ day of _____ 2009

_____

Wanda Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

_____

Charles Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

APPENDIX

IN THE COURT OF APPEALS

STATE OF GEORGIA

Wanda Spann, and	)	
Charles Spann	)	**CASE NO: A08A1198**
Plaintiffs/Appellants	)	
	)	
vs.	)	
	)	
Cobb County Superior Court	)	
Judges, et al.	)	

AMMENDED BRIEF of APPELLANTS

PART ONE

STATEMENT OF FACTS AND PROCEEDINGS BELOW

On April 24, 2007 Plaintiffs Wanda Spann and her husband Charles Spann, proceeding pro se, filed a complaint against these Defendants in the Superior Court of Cobb County, Georgia for Tortious Interference with Employment. The following persons were named as Defendants in said complaint: Superior Court Judges James Bodiford, Robert Flournoy III, Adele Grubbs, S. Lark Ingram, George Kreeger, Kenneth Nix, Dorothy Robinson, Mary Staley;

Michael Stoddard, Chief Magistrate Judge Frank Cox, former Cobb Superior Court Administrator Howard "Skip" Chesshire, and County Manager David Hankerson. The complaint was filed against all the Defendants in their official capacity, with the exception of Magistrate Frank Cox, who in addition to being named in his official capacity, was also named individually. All parties were residents of Cobb County.

An action of Tortious Interference with Employment was brought against these Defendants as a result of Plaintiff Wanda Spann's wrongful and unauthorized employment termination by Magistrate Judge Frank Cox (Violations of Uniform Superior Court Rules 1.1, 1.2 (B), and 27); a false affidavit submitted and signed by Howard "Skip" Chesshire in the United States District Court for the Northern District of Georgia (Atlanta Division) pertaining to Wanda Spann's employment, and additionally providing false information to Frank Cox relative to Wanda Spann's employment prior to her termination; and actions taken by County Manager David Hankerson abolishing Wanda Spann's employment position and transferring key services from Plaintiff Wanda Spann's office to Magistrate Judge Frank Cox, contrary to the Uniform Court Rules of the Georgia Superior Courts.

Defendants Superior Court Judges were named in this action due to their failure to protect Wanda Spann whom

they employed, from the tortious and malicious acts of Defendants Frank Cox with the assistance of Howard Chesshire and David Hankerson.

On June 7, 1983, Plaintiff Wanda Spann was appointed Director of Cobb County Pretrial Court Services, by the Superior Court Judges Council, consisting of all judges elected to the Cobb Superior Court bench. Initially appointed by the Court under the authority of a local court order which established the Pretrial Services Agency in 1973, Wanda Spann was reaffirmed as Director of Cobb County Pretrial Services by the Superior Court Judges on July1, 1985 when the Uniform Superior Court Rules of Georgia were promulgated by the Georgia Supreme Court. Under Rule 27.1 of said Rules, Pretrial Services Directors in Georgia counties are hired by and hold office at the pleasure of the Superior Court Judges (R 247); (r 260 Exhibit 1). Wanda Spann was an employee of the Cobb County Superior Court Judges.

On May 22, 2003 after serving in her position 20 years with an unblemished employee performance record, Wanda Spann was terminated by Magistrate Frank Cox. (R 247)

On August 29, 2003, Plaintiff Wanda Spann filed a charge of discrimination in employment with the United States Equal Opportunity Commission (EEOC), asserting claims for termination of employment due to her race, retaliation

against her for complaining about racial harassment, and participating in a protected activity.

On August 3, 2004, Plaintiff Wanda Spann received a notice of the right to institute a civil action pursuant to Title VII of the Civil Rights Act of 1964, from the United States Justice Department, Washington D.C.

Plaintiff Wanda Spann filed a complaint in the United States District Court under 42 U.S.C. § 2000 e, et seq on July 1, 2004. Named as Defendants in the Federal Case were: Cobb County Government, Cobb County Superior Court Judges Council, Cobb County Pretrial Court Services Agency and Chief Magistrate Frank Cox. In addition to Plaintiff Wanda Spann's complaint of Racial Discrimination, she also brought a claim that she was terminated by Frank Cox who had no authority to do so. Plaintiff Wanda Spann also showed all of the destructive measures taken by Frank Cox to remove her from her job. She also provided the Federal Court with several documents from the Georgia Supreme Court to support her claim that Frank Cox had no authority to terminate her. All the Defendants were either dismissed from the case or received Summary Judgment in their favor regarding the discrimination claim. However, the Federal Court elected not to exercise "supplemental jurisdiction" on the authority issue, citing that it was a "state" issue. The issue of authority was never resolved in the Federal case. Plaintiff

Wanda Spann filed an appeal with the United States Court of Appeals for the Eleventh Circuit on May 19, 2006. The higher court upheld the decision of the lower court, including their decision not to rule on the issue of authority.

The Tortious Interference with Employment claim was filed by the Plaintiffs to recover losses and damages they suffered (R 03-11), due to the actions of Defendants Frank Cox, Howard Chesshire and David Hankerson, strangers to Wanda Spann's employment who interfered in the employment relationship between Wanda Spann and the Superior Court Judges of Cobb County, maliciously and without privilege.

As in the Federal case, the Superior Court Judges are represented by Attorney General Thurbert Baker and his staff; all other parties are represented by George M. Weaver, LLP.

On May 9, 2007, administrative Judge Shepherd L. Howell of the Seventh Judicial Administrative District appointed retired Senior Judge Robert Walther to preside in the case currently under review.

In July 2007, the case was referred to Cobb County's Alternative Dispute Resolution (ADR) Program (Mediation) by parties unknown to Plaintiffs. Plaintiffs agreed to mediation and followed all directives to set up the mediation session, based on information provided by the

ADR office. Plaintiff Charles Spann contacted Attorney George Weaver in an effort to reach an agreement on the selection of the mediator, as well as the date and time of the mediation session. Mr. Weaver did not return the call. Plaintiff Charles Spann also contacted Steffanie Walke Morrison of the State Attorney General's office who advised that she was in the process of drawing up a motion to oppose mediation.

On August 1, 2007, a motion was filed by all Defendants to exempt the case from mediation, citing the case is unlikely to reach resolution through ADR (R 75-80).

A status conference was held at the request of the presiding Judge on September 7, 2007. Prior to the hearing, Plaintiffs Charles and Wanda Spann received a letter from the presiding Judge informing them of the status meeting. This came shortly after Attorney George Weaver filed a request for an Oral Hearing on his clients' Motion for Summary Judgment under Uniform Superior Court Rule 6.3 (R 151-153). Responding to the Motion, Judge Walther wrote that he was of the opinion that a status meeting would be more appropriate. However, when the status conference was held the focus shifted from finding out where we all were, to the Judge advising "the only thing we need to address today would be the motion to exempt the case from ADR". He went on to state he had placed a call to the ADR people and told them to put it on hold. (Transcript

filed September 14, 2007 Pg. 2, lines 5-10). The Court also stated during the conference, "I don't think there is a chance in the world to have any Mediator get together with all the parties and come up with a solution that would be satisfactory" (Transcript filed September 14, 2007 Pg. 10 lines 23-25). The Judge then directed Attorney George Weaver to prepare a motion denying Plaintiffs' motion agreeing to mediation (Transcript filed September 14, 2007 Pg. 11, lines 3-5).

During the Status Conference Hearing the Court scheduled a Summary Judgment Hearing on the Motions of Cox, Hankerson, and Chesshire. He also scheduled a Motion to Dismiss Hearing on a Motion filed on behalf of the Superior Court Judges. The Judge advised Plaintiffs Charles and Wanda Spann that no testimony would be given during these hearings. He also stated that the issues would only be decided based on affidavits (Transcript filed September 14, 2007, lines 5-9). The hearing was scheduled for October 19, 2007, with Plaintiffs' Affidavits being due by October 15, 2007. The Court then turned to both Plaintiffs and asked, "What else can I mess up for you right now?" (Transcript filed September 14, 2007, Pg. 14 line 15). Plaintiffs' Affidavits were filed on October 15, 2007 as directed by the Court: The Affidavit of Charles Spann, the Affidavit of Wanda Spann, and the Affidavit of Geneva Stokes.

On October 19, 2007 oral arguments were held before Judge Walther on Defendants Cox, Chesshire and Hankerson's Motion for Summary Judgment, and Defendants' Superior Court Judges Motion to Dismiss. Plaintiffs Wanda Spann and Charles Spann proceeded pro se, as they could not obtain an attorney willing to take a case of this magnitude. At the conclusion, Judge Walther advised all parties he would make a decision within 30 days.

Plaintiffs Charles and Wanda Spann filed First Interrogatories to all Defendants on September 28, 2007. Defendants' responses were due by October 31, 2007 (R 218-233).

On October 31, 2007 (the last day of Discovery), attorneys for all Defendants filed a Motion and Brief on behalf of all Defendants to Extend the Deadline for Defendants to Respond to Plaintiffs' First Discovery Request (R 320-323). A proposed order for the Court's signature was attached to this request. The document was apparently drafted by George Weaver, as he signed for the Attorney General and his representatives with express permission (R 320-323).

On November 1, 2007, the Court issued and filed a ruling, dismissing Defendant Frank Cox from the lawsuit, stating Plaintiff Wanda Spann's complaint against him is "barred by res judicata" (R 334, para. 3). Defendants Chesshire and Hankerson were dismissed by the Court, citing their

affidavits to support the dismissals. The Court also dismissed the above-named Defendants on the claims filed by Plaintiff Charles Spann. Further, the Superior Court Judges were dismissed from the complaint by the Court, citing Judicial Immunity.

The Court stated the issues before him were (1) Motion for Summary Judgment of Defendants Cox, Chesshire and Hankerson; (2) Affirmative Defenses of the named Superior Court Judges.

On November 2, 2007 at 10:30 a.m., Plaintiffs filed a motion to Deny Defendants' Motion to Extend the Deadline for Defendants to Respond to Plaintiffs' Discovery Requests (R 339-344). Plaintiffs were made aware of the Court's decision the evening of November 5, 2007 upon receiving their mail.

On November 27, 2007, twenty seven (27) days after Judge Walther ruled on their case, Plaintiffs Charles and Wanda Spann received an Order via U. S. Mail from Judge Walther, ordering all Defendants in this case to respond to Plaintiffs' First Discovery Requests (Interrogatories Requested by Plaintiffs on September 28, 2007; ordering Defendants to do so by November 30, 2007. A copy of the order dated November 23, 2007 may be found in Addendum to Plaintiffs' Motion to Compel Defendants to Answer Plaintiffs' First Interrogatories to Defendants filed on

December 6, 2007 (R 359-364). Plaintiffs filed a Notice of Appeal on November 29, 2007.

On November 30, 2007 Attorney George Weaver drafted a letter to Judge Walther acknowledging receipt of Judge Walther's Order extending the time for Defendants to respond to Plaintiffs' First Discovery Request. Weaver goes on to say, "Inasmuch as you have already granted Summary Judgment to Defendants on all claims, I am returning the Order to you. I am unaware of any requirement for a party to respond to discovery requests after a final order has been entered. You may be aware that Plaintiffs have filed a Notice of Appeal". This correspondence may be found in Plaintiffs' Motion to Compel Defendants to Answer Plaintiffs' First Interrogatories to Defendants filed on December 5, 2007 (R345-358). The original Order, of November 23, 2007 ordering Defendants to respond to Plaintiffs' Discovery requests was never filed in the Cobb County Clerk's Office by Judge Walther or George Weaver. It is apparent that Mr. Weaver sent the Order back to Judge Walther per Mr. Weaver's November 30, 2007 letter.

On January 8, 2008, over 2 months after the final Ruling, George Weaver filed a Brief on Behalf of Defendants Cox, Chesshire, and Hankerson opposing Plaintiffs' Motion to Compel (R 60). Then, on January 15, 2008, Plaintiffs' filed a Reply Brief Opposing the afore-mentioned Motion by

George Weaver (R 369-374). No further action was taken in the lower court by the Judge or parties in this action. The case was docketed in the Georgia Court of Appeals on February 20, 2008.

PART II

ENUMERATION OF ERRORS

(1) The lower court erred by granting Summary Judgment to Defendants Frank Cox, Howard Chesshire, and David Hankerson, in that the lower court erroneously granted these Defendants Summary Judgment without these Defendants having responded to the Plaintiffs' First Interrogatories to Defendants (Plaintiffs' Discovery Requests).

(2) The lower court erred in granting the Superior Court Judges' Motion for Dismissal, in that the lower court erroneously dismissed these Defendants without these Defendants having responded to the Plaintiffs' First Interrogatories to Defendants (Plaintiffs' Discovery Requests).

(3) The lower court erred, in that it erroneously granted a Motion to Extend Discovery and to Respond to Plaintiffs' First Interrogatories to Defendants, twenty three (23) days after making a final ruling in this case.

(4) The lower court erred, in that there were several motions pending on which the lower court never ruled.

(5) The lower court erred in granting Summary Judgment to Defendant Frank Cox, by ascertaining Defendant Cox had authority to terminate Plaintiff Wanda Spann's employment as Director of Cobb County Pretrial Court Services.

(6) The lower court erred in granting Summary Judgment to Defendant Frank Cox stating Frank Cox is barred by Res Judicata.

(7) The lower court erred by granting Summary Judgment to Howard Chesshire based on Howard Chesshire's affidavit.

(8) The lower court erred by granting Summary Judgment to David Hankerson based on his affidavit

(9) The lower court erred by dismissing the complaint of Charles Spann for damages.

(10) The lower court erred by dismissing the Superior Court Judges from this action based on Judicial Immunity.

STATEMENT OF JURISDICTION

This court, rather than the Georgia Supreme Court, has jurisdiction of this appeal, because it is not a cause for

which the Supreme Court has exclusive appellate jurisdiction pursuant to Article VI, section 6, Paragraph II of the Georgia Constitution.

PART THREE

STANDARDS of REVIEW

Under O.C.G.A. § 9-11-56 Summary Judgment is proper when there is no genuine issue of material fact and the movant is entitled to Summary Judgment as a matter of law. A de novo standard of review applies to an appeal from a grant of summary judgment and appellate courts view the evidence, and all reasonable conclusions and inferences from it most favorable to the non-movant. Matjoulis v Integon 226 GA. App. 459 (1), 486 S.E 2d 684 (1997)

The elements of a claim of Tortious Interference with Employment include the existence of an employment relationship, interference by one who is a stranger to the relationship and resulting damage to the employment relationship Hylton v. American Assn & c., 214 Ga. App. 635 (2) (448 S. E. 2d 741) (1994). In addition, it must be shown that the alleged inter meddler acted maliciously and without privilege. Phillips v. Mac Dougal 219 Ga. App. 152, 155 (2) (c) (464 SE. 2d 390) (1995); Wilkinson v. Trust Co. of Ga. Assoc., 128 Ga. App. 473, 475 (3) (197. S.E. 2d 146) (1973). Further, it is clearly established in Georgia that an

individual has a valuable property right is subject to a four-year Statute of limitation. O.C.G.A. § 9-3-31; Taylor v. Greiner, 156 Ga. App. 663. 665 (3) (275 S.E. 2d 737) 1980.

ARGUMENT AND CITATION of AUTHORITY

(1) THE LOWER COURT ERRED BY GRANTING SUMMARY JUDGMENT TO DEFENDANTS FRANK COX, HOWARD CHESSHIRE, AND DAVID HANKERSON, IN THAT THE LOWER COURT ERRONEOUSLY GRANTED THESE DEFENDANTS SUMMARY JUDGEMENT WITHOUT THESE DEFENDANTS HAVING RESPONDED TO THE PLAINTIFFS' FIRST INTERROGATORIES TO DEFENDANTS (PLAINTIFFS' DISCOVERY REQUESTS).

Plaintiffs Wanda Spann and Charles Spann filed First Interrogatories to all Defendants on September 28, 2007 (R 218-233), pursuant to O.C.G.A. § 9-11-33. Although said Discovery Requests were filed timely and within the Discovery Period, Defendants have never responded to these evidentiary requests. If these evidentiary requests had been answered, the Discovery would have added more substance to Plaintiffs' claim. As such, the court erred by granting Summary Judgment to these Defendants. See 250 Ga. App. 679; McCall v. Henry Medical Center, Inc; 551

S.E. 2d 739. The Defendants failure to answer these interrogatories and the lower court's failure to compel Defendants to answer prior to a judgment being rendered, resulted in a manifested denial of Plaintiffs' due process.

(2) THE LOWER COURT ERRED IN GRANTING THE DEFENDANT SUPERIOR COURT JUDGES MOTION FOR DISMISSAL, IN THAT THE LOWER COURT ERRONEOUSLY DISMISSED THESE DEFENDANTS WITHOUT THESE DEFENDANTS HAVING RESPONDED TO THE PLAINTIFFS' FIRST INTERROGATORIES TO DEFENDANTS (PLAINTIFFS' DISCOVERY REQUESTS)

Again, Plaintiffs Wanda Spann and Charles Spann filed First Interrogatories to all Defendants on September 28, 2007 (R 218-233), pursuant to O.C.G.A. § 9-11-33. These Discovery Requests remain outstanding. Expected testimony from several Superior Court Judges would have added more substance to Plaintiffs' case, particularly on the "authority" issue. The lower court erred by depriving Plaintiffs of such evidentiary materials, critical to their case, by ruling prior to the collection of said evidentiary materials. The Defendants' failure to answer these interrogatories and the lower court's failure to compel

Defendants to answer prior to judgment being rendered, resulted in a manifested denial of Plaintiffs' due process.

(3) THE LOWER COURT ERRED, IN THAT IT ERRONEOUSLY GRANTED A MOTION TO EXTEND DISCOVERY AND TO RESPOND TO PLAINTIFFS' FIRST INTERROGATORIES TO DEFENDANTS, TWENTY THREE (23) DAYS AFTER MAKING A FINAL RULING IN THIS CASE.

The trial court's order of November 23, 2007, EXTENDING THE DEADLINE FOR DEFENDANTS TO RESPOND TO PLAINTIFFS' FIRST INTERROGATORIES to Defendants, was of no use to Plaintiffs, as it was untimely. Twenty-three days had passed since the final ruling. Again, Defendants never complied with the court the lower court's order. The original order was never filed and docketed in the Cobb County Superior Court Clerk's office, and is therefore not included in the official record The only proof Plaintiffs have as to the existence of the Order, is a copy included in an Addendum to Plaintiffs' Motion to Compel (R 359-364). The lower court's failure to order all Defendants to respond to Plaintiff's Discovery request prior to rendering judgment constitutes a manifested denial of Plaintiffs' due process.

(4) THE TRIAL COURT ERRED IN THAT THE TRIAL COURT ERRONEOUSLY LEFT SEVERAL MOTIONS PENDING

As a result of the lower court ordering Defendants on November 23, 2007 to Respond to Plaintiffs' Discovery Requests by November 30, 2007, there were several subsequent motions filed. On December 5, 2007, Plaintiffs filed a Motion to Compel Defendants to Answer Plaintiffs' First Interrogatories to Defendants, asking the court to take whatever action is fair and equitable to resolve this issue and compel Defendants to answer Plaintiffs' Interrogatories without delay. Plaintiffs further requested the court to impose appropriate sanctions against Defendants and counsel for failure to comply with the order of the court (R 345-358). As previously mentioned, Addendum to the Motion to Compel was filed December 6, 2007, with an attached copy of the lower court's November 23, 2007 order (R359-364).

On January 8, 2008, Attorney Weaver filed a brief on behalf of Defendants Cox, Chesshire and Hankerson, opposing Plaintiffs' Motion to Compel (R 365-368). Plaintiffs entered a Final Motion on January 15, 2008, opposing Defendants Cox, Chesshire and Hankerson's latter Motion (R369-374). However, the lower court failed to rule on either of these Motions.

(5) THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT FRANK COX, BY ASCERTAINING DEFENDANT HAD THE AUTHORITY TO TERMINATE PLAINTIFF WANDA SPANN'S EMPLOYMENT AS DIRECTOR OF COBB COUNTY PRETRIAL COURT SERVICES

Whether or not Defendant Frank Cox had authority to terminate Wanda Spann's employment, was one of the primary issues raised by Wanda Spann in her complaint. To prevail at summary judgment under O.C.G.A. § 9-11-56, the moving party must demonstrate that there is no genuine issue of material fact and that the undisputed facts, viewed in the light most favorable to the non-moving party, warrant judgment as a matter of law O.C.G.A. § 9-11-56 (C).

Plaintiff Wanda Spann has shown that Frank Cox did not have the authority to terminate her employment; and thus has shown the authority issue is a genuine issue of material fact that should have resulted in this matter being set for trial by the lower court.

For five years now, Defendants Frank Cox, Howard Chesshire, and Superior Court Judge Mary Staley have blatantly misrepresented the facts regarding the authority issue. Every court, thus far, that has reviewed their statements, has overlooked the truth by siding with these

Defendants, even though evidence to the contrary has been overwhelming.

The lower court made its Summary Judgment ruling based on an affidavit of Defendant Frank Cox and accompanying memo from Superior Court Judge Mary Staley. However, one need look no further than a memorandum from Defendant Cox to Plaintiff Wanda Spann, dated March 5, 2003 to determine that Pretrial Services was not under the umbrella of Magistrate Court. In the memo, Defendant Cox wrote, "Effective immediately Pretrial services will no longer serve as an independent unit, but as a division of Magistrate Court" (R265 Exhibit 6). Further, in a sworn deposition in the Federal case, Defendant Cox admitted the Pretrial Services Director holds office at the pleasure of the Superior Court Judges (R 185; Cox Deposition Federal Civil Action 1:04 –cv—1951 (MHS) Pg. 15 lines 4-9). Defendant Cox stated he is unaware of any order anywhere that outlines how Pretrial Services would function in the Magistrate Court. Cox further mentioned in the deposition that Pretrial Services, "probably wasn't a division of Magistrate Court" (during Wanda Spann's employment) "It is now. It probably wasn't under your supervision". When asked how long Pretrial Services has been a division of Magistrate Court, he replied "Well since we terminated—since you were terminated, or shortly thereafter" (R 85-86;

Cox Deposition Federal Civil Action 1:04 –cv—1951 (MHS) Pg. 21, lines 13-19).

Plaintiff Wanda Spann's position as Pretrial Director is fully outlined in Rule 27.1 of the Georgia Supreme Court's Uniform Superior Court Rules (R 260, Exhibit 1). Wanda Spann was appointed by and served at the pleasure of the Superior Court Judges Council.

As stated in her affidavit, Plaintiff Wanda Spann was never employed by the Chief Magistrate or the Magistrate Court. The Magistrate Court did not control the Budget of the Pretrial Services office and Plaintiff Wanda Spann's staff were not employees of Magistrate Court. Wanda Spann did not participate in any staff meetings of the Magistrate Court during her employment (R 248).

Defendant Cox alleges he had the authority to terminate Wanda Spann under a 1985 order that gave him supervisory authority, thus giving him authority to terminate Wanda Spann.

This was not true. Plaintiff Wanda Spann learned during the Federal case that Defendants Cox had used the referenced 1985 order to terminate her employment. This knowledge was acquired by Plaintiff Wanda Spann upon reviewing an affidavit by Howard Chesshire (R 288 Exhibit 27), filed in the federal case, and a memorandum to Frank Cox from Judge Mary Staley attached to the Chesshire affidavit, stating the "Supreme Court of Georgia had

authorized this supervisory structure" (R 328). There had been no such approval.

Defendant Howard Chesshire wrote in his affidavit, "By order of October 24. 1985, the supervision and administration of the Pretrial Court Services was transferred entirely from the Court Administrator to the Chief Magistrate Judge. This was done pursuant to uniform Superior Court Rule 1.2(B) and with the approval of the Georgia Supreme Court" (R 289 Exhibit 27-1).Again, this was not true.

The State Attorney General used these two documents (Chesshire's affidavit and a letter from Judge Staley)in the federal case to show that Cox had authority, explaining the transfer of authority was done in accordance to Rule 1.2(b) of the Uniform Superior Court Rules.

Plaintiff Wanda Spann presented evidence to the federal court as well as to Defendants' counsel that no such filing or approval exists within the record of the Georgia Supreme Court. Plaintiff Wanda Spann met twice with then Georgia Supreme Court Clerk Sherie Welch, who provided Wanda Spann with a list of approved changes to the Uniform Court Rules. Cobb County Superior Court was not on the list (R 262, Exhibit 3).

Wanda Spann requested an affidavit from Mrs. Welch verifying the non-existence of the 1985 order. After presenting the 1985 order to the Supreme Court Justices

for review, Welch sent Wanda Spann a letter stating the Justices had reviewed the document, but wanted to maintain their policy of certifying only what they have (R 263, Exhibit 4). They did not have the 1985 Order.

Rule 1.2(b) of the Uniform Superior Court Rules is very clear. It states, "each Superior Court By action of a majority of its judges (or failing this, by action of its chief judge), from time to time, may propose to make and amend rules which deviate from the Uniform Superior Court Rules provided such proposals are not inconsistent with the Georgia Civil Practice Act, General laws, these Uniform Superior Court Rules, or any directive of the Supreme Court of Georgia. Any such proposal shall be filed with the clerk of the Georgia Supreme Court; proposals so submitted shall take effect 30 days after approval by the Supreme Court. It is the intendment of these rules that rules deviate from the Uniform Superior Court Rules be limited in scope" (R 264 Exhibit 5).

After Plaintiff Wanda Spann presented her findings regarding the non-existence of the 1985 order in the Supreme Court, Counsel for the Defendants never mentioned Rule 1.2(b) again in the federal case, or in the lower court case to prove their case. In the lower court case, Attorney weaver dismissed 1.2(b) as not relevant (Transcript of Summary Judgment/Dismissal Hearing Pg. 13. lines 14-18). This was certainly not their position in the

federal case before the truth about the 1985 order was exposed by Plaintiff Wanda Spann and the Georgia Supreme Court.

It was well known throughout the Cobb County Courthouse that there was no "love lost" between Wanda Spann and Howard Chesshire. There had been rifts between them dating as far back as 1983. Wanda Spann questioned Chesshire in the federal deposition about incidents leading to their strained relationship. One thing is for sure, just weeks after taking the Court Administrator position in 1985, ironically the so-called 1985 order was composed and signed on Chesshire's birthday, a point he brought out in his deposition.

The Pretrial Services Department was not affected by this 1985 order. There were no changes made whatsoever. The office remained a separate entity functioning under the authority of the Superior Court Judges, pursuant to Rule 27. Based on Rule 1.1 of the Uniform Superior Court Rules, the 1985 order was automatically repealed on December 31, 1994, as the order had never been approved by the Georgia Supreme Court (R 264 Exhibit 5).

Defendant took an invalid document and used it to terminate Plaintiff Wanda Spann's employment. In addition to showing the 1985 order as invalid, Plaintiff Wanda Spann's Affidavit is sworn testimony of conversations she had directly with Superior Court Judges

who have verified that Frank Cox had no authority to fire Wanda Spann (R307-311). Wanda Spann's affidavit was not considered by the lower court.

If the lower court had compelled defendants to answer Plaintiffs' Discovery Request, Plaintiffs' case would have been better supported. Also, if the lower court had allowed in—court sworn testimony where witnesses could have been examined and cross-examined, the issue of authority being a genuine issue of material fact would have been further revealed. Plaintiffs were denied that opportunity by the lower court. No affidavits were submitted by any of the Superior Court Judges swearing to Frank Cox's alleged authority over Plaintiff Wanda Spann. The only document presented in this case was Judge Mary Staley's unsworn letter, attached to the Cox affidavit in (R 324-338). That letter, as we now know, contained an untrue statement, critical to the court ruling on the issue of authority. Once again, one only needs to review Defendant Frank Cox's deposition in the federal case and his March 5, 2003 memorandum to Plaintiff to determine Defendant Cox was a stranger to the employment relationship Wanda Spann had with the Cobb Superior Court Judges Council.

Acting on an invalid document and without authority, Frank Cox Maliciously terminated Wanda Spann's 23 year career as a Cobb County court employee, with 20 of those years having served as the Cobb Judicial Circuit's Pretrial

Services Director. Defendant Cox also acting maliciously by planning and orchestrating a "witch hunt" railroading Plaintiff Wanda Spann from her position (R247-291). His actions ranged from accessing Spann's computer from a remote site to obtain the contents of a letter Wanda Spann was drafting to Superior Court Judges seeking help from his harassment, to having secretarial employees to spy on Plaintiff. Defendant came up with nothing in the end. His reasons for terminating Plaintiff Wanda Spann from a 23 year stellar career were fabricated. Defendant Cox did not leave any stone unturned in his effort to find something. This included searching Plaintiff Wanda Spann's office, looking at when and where she entered the courthouse, to trying to find discrepancies on an airline ticket for her travel to a National Pretrial Services Convention. Plaintiff Wanda Spann lost her job, unemployment benefits, Rule of 80 retirement, medical/health benefits, 5 years of wages, and also suffered from stress and anxiety as a result of these attacks. All Defendant Cox's actions meet the requirement of Tortious Interference with Employment. Based on Defendants' own Pleading (R 93, Sec III A,), "In certain circumstances Georgia Courts allow an at-will employee to maintain a tortious interference claim. In Batayias v. Kerr-McGee Ga. App. 848 (2004), the Georgia Court of Appeals held: In an action for tortious interference with an employment relationship that is

terminable at will, the Plaintiff must show that "a party without authority to discharge the employee, being activated by an unlawful scheme or purpose to injure and damage him, maliciously and unlawfully persuades the employer to breach the contract with the employee"... the court explained that "Maliciously" means any unauthorized interference.

(6) THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT FRANK COX, STATING FRANK COX IS BARRED BY RES JUDICATA.

The granting of summary judgment to Defendant Cox on the grounds of Defendant Cox being barred by res judicata was erroneous. The factual issues brought in this case, i.e. Frank Cox's lack of authority and his malicious actions in terminating the employment of Plaintiff Wanda Spann were also raised in the federal case. However, the court elected not to exercise "supplemental jurisdiction" over these issues they considered "state" claims. The Appeals Court wrote, Spann raises numerous arguments about Judge Cox's supervisory authority over her. Even if Judge Cox did not have the authority to terminate Spann, this would not afford Spann a remedy under Title VII. The issue of whether Cox had the authority to terminate Spann

falls outside the scope of the protection of Title VII. Having dismissed all federal claims, the district court did not err in declining to exercise supplemental jurisdiction for a state cause of action see Rainey v. Allstate Ins. Co, 370 F. 3d 1086, 1088-89 (11th Cir 2004). The lower court erred in ruling Defendant Cox is barred by res judicata. The issue of res judicata is also a genuine issue of material fact in this case.

(7) THE LOWER COURT ERRED BY GRANTING SUMMARY JUDGMENT TO HOWARD CHESSHIRE BASED ON HOWARD CHESSHIRE'S AFFIDAVIT

The lower court granted summary judgment to Howard Chesshire erroneously. Not only did Howard Chesshire swear to false information regarding the filing of the 1985 order pursuant to Rule 1.2(b), he also provided false information, by stating the Superior Court Judges Council is not an entity that has the ability to hire and fire. These statements were made by Chesshire in a sworn affidavit Chesshire filed in the federal case. Chesshire himself was hired by the Superior Court Judges Council; and was recently replaced by the Council. Further, if Plaintiffs were allowed to present witnesses in this case, Plaintiffs could have shown other involvement of Chesshire in assisting Cox in his actions. The court made it difficult for Plaintiffs,

as it is impossible to cross-examine affidavits. Also, if the interrogatories of Plaintiffs had been answered, there would have been no question as to Chesshire's involvement.

(8) THE LOWER COURT ERRED BY GRANTING SUMMARY JUDGMENT TO DAVID HANKERSON BASED ON HIS AFFIDAVIT

Defendant Hankerson was instrumental in wrongfully transferring key services from Cobb County Pretrial Court Services, including the department's budget, purchasing privileges, payroll, etc., to Frank Cox on March 19, 2003. Hankerson also abolished Plaintiff Wanda Spann's position without the permission of the Cobb County Superior Court Judges Council, and contrary to Rule 27 and 1.2(b) of the Uniform Superior Court Rules of Georgia.
Hankerson was also not compelled to answer the interrogatory requests, making it difficult for Plaintiffs to effectively present a case against him. Also, because oral testimony was prohibited, Plaintiffs were further hindered in making a case against him.

(9) THE LOWER COURT ERRED BY DISMISSING THE COMPLAINT OF CHARLES SPANN FOR DAMAGES

Defendants claim they are not responsible for claims of Plaintiff Charles Spann because of Plaintiff Wanda Spann's loss of employment. Plaintiff Charles Spann suffered as a result of this orchestrated attack on his wife, Plaintiff Wanda Spann. This included being placed under an Internal Affairs Investigation where he was exonerated by his department. This was just one area that affected Plaintiff Charles Spann. (R 292-306)

(10) THE TRIAL COURT ERRED BY DISMISSING THE SUPERIOR COURT JUDGES FROM THIS ACTION

The Superior Court Judges were dismissed solely on Judicial Immunity. Judicial immunity attaches only to actions undertaken in a judicial capacity and not administrative. Forrester v. White 484 U.S. 219. 227-229 (1988). In determining whether an action is "judicial" we consider the nature of the act and whether it is a "function normally performed by a judge." Stump v. Sparkman, 435 U.S. 349.362 (1978).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully urge this Court to reverse the judgment of the trial court below, granting Defendants' Motion for Summary Judgment and Dismissal. Moreover, Plaintiffs request the court to remand the case back to the lower so that Plaintiffs' Discovery requests (Interrogatories) can be answered and

further the genuine issues of material facts as discussed here may be heard.

Respectfully Submitted

This 6th day of May 2008

"s/" **Wanda Spann, Pro Se**

2838 Crestwicke Drive

Kennesaw, Georgia 30152

"s/" **Charles Spann, Pro Se**

2838 Crestwicke Drive

Kennesaw, Georgia 30152

IN THE COURT OF APPEALS

STATE OF GEORGIA

Wanda Spann, and	)	
Charles Spann	)	CASE NO:
		A08A1198
Plaintiffs/Appellants	)	
	)	
vs.	)	
	)	
Cobb County Superior Court	)	
Judges, et al.	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Amended Brief of Appellants Charles and Wanda Spann upon the opposing parties via First Class United States Mail with sufficient postage attached, to:

Steffanie Walke Morrison.
Office of the Attorney General
40 Capitol Square, SW
Atlanta, GA 30334-1300
404-656-3380

George M. Weaver

Hollberg & Weaver, LLP
2941 Piedmont Rd., Ste. C,
Atlanta, Georgia 30305

This 6th day of May, 2008

"s/" Wanda Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

"s/" Charles Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

IN THE SUPREME COURT

STATE OF GEORGIA

WANDA SPANN, and CHARLES SPANN,	§	
Petitioners,	§	
§ PETITION FOR CERTIORARI		
-versus	§	
	§	NUMBER:
COBB COUNTY SUPERIOR COURT JUDGES, et al.,	§	
Respondents,	§	

PETITION FOR WRIT OF CERTIORARI

"s/" Wanda Spann
"s/" Charles Spann
2838 Crestwicke Dr.
Kennesaw, Georgia 30152
(770) 426-9475

Petitioners

COME NOW, Wanda Spann and Charles Spann ("Petitioners") and respectfully request that this Court issue a writ of certiorari to the Court of Appeals. In support, the Petitioners show as follows:

Type of Case

This is an application for a writ of **certiorari** to the **Court** of **Appeals**, pursuant to Supreme Court Rule 38. The underlying case sought to be brought up from the **Court** of **Appeals** is a tortuous interference with employment action.

Judgment Appealed and Date of Entry

The **Court** of **Appeals** entered its order denying applicant's motion for reconsideration on July 24, 2008. (Exhibit – 1)[1] The appeal involved a disputed employment action. The Court had previously denied Petitioners' Appeal without opinion. (Exhibit – 1)

[1] All exhibits attached hereto are from the record on appeal that was transmitted to the Court of Appeals.

Factual/Procedural Background

On April 24, 2007 Plaintiffs Wanda Spann and her husband Charles Spann, proceeding pro se, filed a complaint against Respondents in the Superior Court of Cobb County, Georgia for Tortious Interference with Employment. The sitting Superior Court Judges[2] were named as Defendants, along with Chief Magistrate Judge Frank Cox, former Cobb Superior Court Administrator Howard "Skip" Chesshire, and County Manager, David Hankerson. The complaint was filed against all the Defendants in their official capacity, with the exception that Magistrate Frank Cox, who in addition to being named in his official capacity, was also named individually.

The superior court action for Tortious Interference with Employment was brought against Respondents a result of Petitioner Wanda Spann's wrongful and unauthorized employment termination by Magistrate Judge Frank Cox (Violations of Uniform Superior Court Rules 1.1, 1.2 (B), and 27); a false affidavit submitted and signed by Howard "Skip" Chesshire in the United States District Court for the Northern District of Georgia (Atlanta Division) (Exhibit - 2

[2] The Superior Court Judges were released on the basis of judicial immunity. However the judges are not immune to claims for injunctive relief, i.e. reinstatement and back pay, and should not have been dismissed from the action.

hereto) [3] pertaining to Wanda Spann's employment, and additionally Cheshire's providing false information to Frank Cox relative to Wanda Spann's employment prior to her termination; and actions taken by County Manager David Hankerson abolishing Wanda Spann's employment position and transferring key services from Plaintiff Wanda Spann's office to Magistrate Judge Frank Cox, contrary to the Uniform Court Rules of the Georgia Superior Courts.

Defendant Superior Court Judges were named in this action due to their failure to protect Wanda Spann whom they employed, from the tortious and malicious acts of Defendants Frank Cox with the assistance of Howard Chesshire and David Hankerson.

On June 7, 1983[4], Plaintiff Wanda Spann was appointed Director of Cobb County Pretrial Court Services, by the Superior Court Judges Council, consisting of all judges elected to the Cobb Superior Court bench. Initially appointed by the Court under the authority of a local court order which established the Pretrial Services Agency in 1973, Wanda Spann was reaffirmed as Director of Cobb

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[3] The affidavit falsely states that The Supreme Court of Georgia had approved or otherwise ratified a departure from the Uniform Superior Court Rules. It was also learned in deposition testimony that Judge Mary Staley had authored the false affidavits.

[4] See Affidavit of Wanda Spann Exhibit – 6)

County Pretrial Services by the Superior Court Judges on July1, 1985 when the Uniform Superior Court Rules of Georgia were promulgated by the Georgia Supreme Court. Under Rule 27.1 of said Rules, Pretrial Services Directors in Georgia counties are hired by and hold office at the pleasure of the Superior Court Judges. Wanda Spann was an employee of the Cobb County Superior Court Judges. On May 22, 2003 after serving in her position 20 years with an unblemished employee performance record, and after numerous conflicts with Magistrate Frank Cox concerning various improprieties by Cox[5], Wanda Spann was wrongfully, maliciously, and without authority, terminated by Magistrate Frank Cox.

II. STANDARD FOR GRANTING

Supreme Court Rule 40 provides that "[a] petition for the writ will be granted only in cases of great concern, gravity, or importance to the public." As this Court is well aware, a case need not involve scintillating underlying facts

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[5] Such as improper relationships with subordinates and good old boy favor inappropriate bonds for child molesters, and an attempt to circumvent bond requirements of a murder suspect by attempting to have one of Spann's subordinates sign a false letter. Some of these items are *au dehors* the record due to Petitioner's inability to combat the well orchestrated attack against her in the lower court. But see generally page 8 of the Spann affidavit.

that are important to the public in order to qualify for certiorari review. This Court routinely uses its certiorari powers to review cases where the decision of the Court of Appeals misapplies a rule of law such that an incorrect precedent is established which will almost certainly confuse the law and adversely affect future cases.

(8) THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT FRANK COX, BY ASCERTAINING THAT HE HAD THE AUTHORITY TO TERMINATE PLAINTIFF WANDA SPANN'S EMPLOYMENT AS DIRECTOR OF COBB COUNTY PRETRIAL COURT SERVICES

Plaintiff Wanda Spann demonstrated that Frank Cox did not have the authority to terminate her employment. The grounds posited by respondents in their appellate brief were specious and should not have been accepted by the Court of Appeals.

A memorandum from Defendant Cox to Plaintiff Wanda Spann, dated March 5, 2003 (Exhibit – 3) clearly refutes Respondents' position that Pretrial Services was under the umbrella of Magistrate Court. In the memo, Defendant Cox wrote, "Effective immediately Pretrial services will no longer serve as an independent unit, but as a division of Magistrate Court". Further, in a sworn deposition in the

Federal case, Defendant Cox admitted the Pretrial Services Director holds office at the pleasure of the Superior Court Judges. Defendant Cox testified that he was unaware of any order anywhere that outlines how Pretrial Services would function in the Magistrate Court. Cox further testified in the deposition that Pretrial Services, "probably wasn't a division of Magistrate Court" (during Wanda Spann's employment) "It is now. It probably wasn't under your supervision". When asked how long Pretrial Services has been a division of Magistrate Court, he replied "Well since we terminated—since you were terminated, or shortly thereafter" (Affidavit of Wanda Spann referencing Cox Deposition Federal Civil Action 1:04 –cv—1951 Exhibit – 4, page 3, continuation of paragraph 6). Spann's position as Pretrial Director is fully outlined in Rule 27.1 of the Georgia Supreme Court's Uniform Superior Court Rules Wanda Spann was appointed by and served at the pleasure of the Superior Court Judges Council.

As stated in her affidavit, Plaintiff Wanda Spann was never employed by the Chief Magistrate or the Magistrate Court. The Magistrate Court did not control the Budget of the Pretrial Services office and Plaintiff Wanda Spann's staff were not employees of Magistrate Court. Wanda Spann did not participate in any staff meetings of the Magistrate Court during her employment.

Defendant Cox alleged he had the authority to terminate Wanda Spann under a 1985 order that gave him supervisory authority, thus giving him authority to terminate Wanda Spann.

That was not true. Plaintiff Wanda Spann learned during the Federal case that Defendants Cox had used the referenced 1985 order to terminate her employment. This knowledge was acquired by Plaintiff Wanda Spann upon reviewing an affidavit by Howard Chesshire[6] (Exhibit – 2) filed in the federal case, and a memorandum to Frank Cox from Judge Mary Staley attached to the Chesshire affidavit, stating the "Supreme Court of Georgia had authorized this supervisory structure" (Attachment to Cheshire Affidavit is of record in the Court of Appeals) There had been no such approval. (See Exhibit – 6 record and correspondence from the Clerk of this Court.)

Defendant Howard Chesshire swore in his affidavit, "By order of October 24. 1985[7], the supervision and administration of the Pretrial Court Services was transferred entirely from the Court Administrator to the Chief Magistrate Judge. This was done pursuant to

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[6] It is common public knowledge, of which judicial notice may be taken, from various news services that Cheshire has been charged and is being investigated, for various sex scandals and abuses of power.

[7] Any such Order would have automatically expired pursuant to Uniform rule 1.1 after nine years rendering it ineffective.

Uniform Superior Court Rule 1.2(B) and with **the approval of the Georgia Supreme Court**" That was false.

The State Attorney General used these two documents (Chesshire's affidavit and a letter from Judge Staley) in the federal case to show that Cox had authority, explaining the transfer of authority was done in accordance to Rule 1.2(b) of the Uniform Superior Court Rules.

Plaintiff Wanda Spann presented evidence to the federal court as well as to Defendants' counsel that no such filing or approval exists within the record of the Georgia Supreme Court. Plaintiff Wanda Spann met twice with then Georgia Supreme Court Clerk, Sherie Welch, who provided Wanda Spann with a list of approved changes to the Uniform Court Rules. Cobb County Superior Court was not on the list (Exhibit - 6).

Wanda Spann requested an affidavit from Mrs. Welch verifying the non-confirmation of the 1985 order. After presenting the 1985 order to the Supreme Court Justices for review, Welch sent Wanda Spann a letter stating the Justices had reviewed the document, but wanted to maintain their policy of certifying only what they have (Exhibit – 6). There is no Supreme Court of Georgia approval the 1985 Order.

Rule 1.2(b) of the Uniform Superior Court Rules is very clear. It states, "each Superior Court By action of a majority of its judges (or failing this, by action of its chief

judge), from time to time, may propose to make and amend rules which deviate from the Uniform Superior Court Rules provided such proposals are not inconsistent with the Georgia Civil Practice Act, General laws, these Uniform Superior Court Rules, or any directive of the Supreme Court of Georgia. Any such proposal shall be filed with the clerk of the Georgia Supreme Court; proposals so submitted shall take effect 30 days after approval by the Supreme Court. It is the intendment of these rules that rules deviate from the Uniform Superior Court Rules be limited in scope."

After Plaintiff Wanda Spann presented her findings regarding the non-confirmation of the 1985 order in the District Court, Counsel for the Defendants never mentioned Rule 1.2(b) again in the federal case, nor in the lower court case to bolster their claims. In the lower court case, Attorney Weaver dismissed 1.2(b) as not relevant (Transcript of Summary Judgment/Dismissal Hearing Pg. 13. lines 14-18). That was certainly not their position in the federal case before the truth about the 1985 order was exposed by Plaintiff Wanda Spann and the Georgia Supreme Court.

Defendant took an invalid document and used it to terminate Plaintiff Wanda Spann's employment. In addition to showing the 1985 order as invalid, Plaintiff Wanda Spann's Affidavit contains sworn testimony of

conversations she had directly with Superior Court Judges who have verified that Frank Cox had no authority to fire Wanda Spann (Exhibit – 4) Wanda Spann's affidavit along with that of her husband Charles Spann, taken in their entirety brought forth genuine issues of material fact which were not considered by the lower court and militated against the awarding of summary judgment to Defendants below.

Acting on an invalid document and without authority, Frank Cox Maliciously terminated Wanda Spann's 23 year career as a Cobb County court employee, with 20 of those years having served as the Cobb Judicial Circuit's Pretrial Services Director. Defendant Cox also acting maliciously by planning and orchestrating a "witch hunt" railroading Plaintiff Wanda Spann from her position His actions ranged from accessing Spann's computer from a remote site to obtain the contents of a letter Wanda Spann was drafting to Superior Court Judges seeking help from his harassment, to having secretarial employees to spy on Plaintiff. (Spann Affidavit Exhibit 6, page 7 paragraph 15 – page 12 paragraph 27.) Cox came up with nothing in the end. His reasons for terminating Plaintiff Wanda Spann from a 23 year stellar career were fabricated. Defendant Cox did not leave any stone unturned in his effort to find something. This included searching Plaintiff Wanda Spann's office, looking at when and where she entered the

courthouse, to trying to find discrepancies on an airline ticket for her travel to a National Pretrial Services Convention. Plaintiff Wanda Spann lost her job, unemployment benefits, Rule of 80 retirement, medical/health benefits, 5 years of wages, and also suffered from stress and anxiety as a result of these attacks. All Defendant Cox's actions meet the requirement of Tortious Interference with Employment.

Respondents in their own pleadings conceded "In certain circumstances Georgia Courts allow an at-will employee to maintain a tortious interference claim. In Batayias v. Kerr-McGee 267 Ga. App. 848 (2004), the Georgia Court of Appeals held: In an action for tortious interference with an employment relationship that is terminable at will, the Plaintiff must show that "a party without authority to discharge the employee, being activated by an unlawful scheme or purpose to injure and damage him, maliciously and unlawfully persuades the employer to breach the contract with the employee"... the court explained that "Maliciously" means any unauthorized interference.

(9) THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT FRANK COX, ON GROUNDS OF RES JUDICATA.

The granting of summary judgment to Defendant Cox on the grounds of Defendant Cox being protected by res

judicata was erroneous. The factual issues brought in this case, i.e. Frank Cox's lack of authority and his malicious actions in terminating the employment of Plaintiff Wanda Spann were also raised in the district Court case. However, that court elected not to exercise "pendent/supplemental jurisdiction" over these issues considered as "state" claims. The Eleventh Circuit court of Appeals wrote, "**Spann raises numerous arguments about Judge Cox's supervisory authority over her. Even if Judge Cox did not have the authority to terminate Spann, this would not afford Spann a remedy under Title VII. The issue of whether Cox had the authority to terminate Spann falls outside the scope of the protection of Title VII. Having dismissed all federal claims, the district court did not err in declining to exercise supplemental jurisdiction for a state cause of action see** Rainey v. Allstate Ins. Co, **370 F. 3d 1086, 1088-89 (11th Cir 2004). . See Spann v. Cobb County Pretrial Court Services Agency, Appeal No. 06-12387, CA 11, page 7 , footnote 3 (Exhibit – 7)** The entire appellate order is of record having been kindly included in a brief by Respondents, restraints on the number of pages allowed herein prevent the inclusion of the entire opinion.

The lower court erred in ruling Defendant Cox was protected by res judicata as the state claims against him were not addressed in the federal action and were not determined unfavorably to Appellant Wanda Spann.

THE LOWER COURT ERRED BY GRANTING SUMMARY JUDGMENT TO HANKERSON

Defendant Hankerson was instrumental in wrongfully transferring key services from Cobb County Pretrial Court Services, including the department's budget, purchasing privileges, payroll, etc., to Frank Cox on March 19, 2003. Hankerson also abolished Plaintiff Wanda Spann's position without the permission of the Cobb County Superior Court Judges Council, and contrary to Rule 27 and 1.2(b) of the Uniform Superior Court Rules of Georgia. (Wanda Span Affidavit, Exhibit – 6, page 13) Hankerson had for many years been governmentally employed under various names and social security numbers with the County which further went against his credibility and brought forward questions of fact militating against summary judgment. (Affidavit of Charles Spann Exhibit – 5) Similarly to Cox, these Respondents are not protected by *res judicata.*

THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMEHJNT AGAINST PETITIONER CHARLES SPANN

The trial Court improperly concluded that Charles Spann had no viable claims. The Affidavit Of Charles Spann (Exhibit – 7) clearly sets forth related derogatory actions taken against him by the respondents

in furtherance of their conspiracy that should have been actionable below.

CONCLUSION

Petitioner deserves to have her day in Court rather than being forever foreclosed closed by an improper award of summary judgment. Under principles of equity, fairness, and justice, there is no conceivable reason to allow this case to be forever closed at this juncture. This Court should remand this action to the lower courts for trial after discovery procedures. As the Court of last resort for matters of Georgia law, this Court has the ability and obligation to ensure that its lower courts have not failed to recognize and address disputed fact issues that are potentially outcome-determinative. Respondent's actions raise the specter of constitutional due process violations which, absent relief from this tribunal, may well lead to further Federal Appellate Actions. Defendant Cox was not protected by *res judicata* as incorrectly found in the trial Court and erroneously affirmed by the Court of Appeals. Similarly the power to terminate Petitioner Spann was not vested in Cox and the false affidavits of Hankerson and Cheshire and false writing of Judge Staley not withstanding, this Court DID NOT affirm or authorize any deviation from the Uniform Rules. Mrs. Spann's termination and associated damages are actionable as were the actions taken against her husband.

For all the foregoing reasons, Petitioners respectfully request that this Court grant this petition for certiorari.

Respectfully submitted This the 13th day of August, 2008.

"s/" **Wanda Spann, Pro Se**
2838 Crestwicke Drive
Kennesaw, Georgia 30152

"s/" **Charles Spann, Pro Se**
2838 Crestwicke Drive
Kennesaw, Georgia 30152

IN THE SUPREME COURT

STATE OF GEORGIA

WANDA SPANN, and	§	
CHARLES SPANN,	§	
Petitioners,	§	
§ PETITION FOR CERTIORARI		
-versus	§	
	§	NUMBER:
COBB COUNTY SUPERIOR	§	
COURT JUDGES, et al.,	§	
Respondents,	§	
	§	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Petition for Certiorari upon the opposing parties via First Class United States Mail with sufficient postage attached, to:

Steffanie Walke Morrison.
Office of the Attorney General
40 Capitol Square, SW
Atlanta, GA 30334-1300
30305
404-656-3380

George M. Weaver
Hollberg & Weaver, LLP
2941 Piedmont Rd., Ste. C,
Atlanta, Georgia

This 13th day of August, 2008

"s/" Wanda Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

"s/" Charles Spann, Pro Se
2838 Crestwicke Drive
Kennesaw, Georgia 30152

SUPREME COURT OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: January 12, 2009

Wanda Spann
2838 Crestwicke Drive
Kennesaw, Ga. 30152

Case No. S08C2026

WANDA SPANN et al. v. COBB SUPERIOR COURT JUDGES et al.

COURT OF APPEALS CASE NO. A08A1198

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur, except Benham and hines, JJ., not participating.

Therese S. Barnes, Clerk

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WANDA SPANN,
Plaintiff,

Vs. Civil Action No.1
1:04-CV-1951 (MHS)

COBB COUNTY GOVERNMENT *
COBB COUNTY SUPERIOR COURT *
JUDGES COUNCIL *
COBB COUNTY PRETRIAL COURT *
SERVICES AGENCY, *
FRANK COX, in his OFFICIAL *
CAPACITY as HONORABLE CHIEF *
JUDGE OF THE COBB COUNTY *
MAGISTRATE COURT & in his *
INDIVIDUAL CAPACITY, *
Defendants *

AFFIDAVIT OF HOWARD CHESSHIRE

After being properly sworn, Howard Chesshire testifies as follows:

1.

I am competent in age and mind to give the testimony in this affidavit, and I present this affidavit for use in

defending the above-styled case, currently pending before this Court.

2.

I am employed as the Court Administrator of the Cobb County Superior Court. I have held this position since 1985.

3.

I am familiar with the Cobb County Pre-trial Services program (hereinafter "Pre-trial Services") , the program that employed Plaintiff, Wanda Spann, and the manner in which it is operated.

4.

The pre-trial services function of the Cobb Judicial Circuit was officially recognized by an Order of the Superior Court of Cobb County filed October 22, 1973. (Exhibit A)

5.

During the period between July 1, 1985 and October 24, 1985, Pre-trial Services was under the supervision and administration of the office of the Court Administrator of the Cobb county Superior Court as provided in Georgia Uniform Superior Court Rule 27.1.

6.

By Order of October 24, 1985, the supervision and administration of the Pre-trial Court Services was transferred entirely from the Court Administrator to the

Chief Magistrate Judge. This was done pursuant to Uniform Superior Court Rule 1.2(B) and with the approval of the Georgia Supreme Court. (Exhibit B, and attached letters)

7.

The Superior Court has had no administrative role with regard to Pre-trial Services since ~~June 30~~ October 24, 1985.

8.

The Superior Court does not have the authority to determine the terms and conditions of the employees of Pre-trial Services. The Superior Court does not determine who is hired by Pre-trial Services. It does not make decisions concerning the termination of employees of Pre-trial Services. It does not set the work schedule of Pre-trial Services employees, nor does it determine the manner, method, and means by which the work done by the employees of Pre-trial Services is accomplished. Further, the Superior Court does not pay the wages and benefits of employees of the Pre-trial Services.

9.

Further, there is no appeal process of employment decisions made by the Cobb County Magistrate Court through the Superior Court. At no time did any judge or other agent of the Superior Court have the authority to make employment decisions concerning the Plaintiff.

10.

The Superior Court Judges Council is not an entity that has the ability to hire and fire employees. The Council is made up the Judges of the Superior Court of Cobb County and functions solely as a group in order to promote the efficient operation of the Superior Court an its duties.

Further this affiant sayeth not.

_____

"s/" Howard Chesshire

Sworn to and subscribed
Before me this __ day
of _____ 2004.

"s/" Charlotte Rooks
NOTARY PUBLIC
My commission expires: Notary Public, Cobb County, Georgia My commission Expires April 21, 2008

IN THE SUPERIOR COURT FOR THE COUNTY OF COBB

STATE OF GEORGIA

ORDER

It is herby ordered that the supervision and administration of the Pre-Trial Court Services be transferred from the Court Administrator's Office to the Chief Magistrate of Cobb County until further order of this Court.

SO ORDERED, this 24th day of October 1985.

"s/" CHIEF JUDGE WATSON L. WHITE

"s/" JUDGE DOROTHY A. ROBINSON

"s/" JUDGE G. GRANT BRANTLEY

"s/" JUDGE F. HARRIS HINES

"s/" JUDGE GEORGE H. KREEGER

"s/" JUDGE TOM CAUTHORN

CHIEF JUDGE MARY E. STALEY
SUPERIOR COURT OF COBB COUNTY
COBB JUDICIAL CIRCUIT

30 WADDELL STREET
MARIETTA, GEORGIA 30090-9642
(770) 528-1816
FAX (770) 528-1821

MEMO

TO: Frank R. Cox, Chief Magistrate – Magistrate Court
FROM: Mary E. Staley, Chief Judge – Superior Court
DATE: March 19, 2003 "s/"MES
RE: Pretrial Services

The Council of Superior Court Judges met yesterday and discussed the issue of supervision of Pretrial Services. We recognize that, except elected officials, every person in Cobb County government is subject to being supervised. The history of supervision of Pretrial Services indicates that in 1985 the judges of the Superior Court of Cobb County transferred supervision from Superior Court Administration to the Magistrate Court. This action was taken with the consent of the Chief Magistrate and the director of Pretrial Services and this arrangement has lasted for eighteen years. The Supreme Court of the State

of Georgia has authorized this supervisory structure as well. We affirm the action of the Council of Superior Court Judges in 1985. The Magistrate Court retains the authority to supervise Pretrial Services, its director and its employees.

Public Safety Building
32 Waddell Street
Marietta, Georgia 30090
(770) 528-8931 Fax 528-8947
TDD (678) 581-5432
www.cobbcounty.org

FRANK R. COX
Chief Judge

JOAN VAUGHN BOOM
DONALD T. PHILLIPS
Magistrate Judges

BOBBIE C. ELY
Court Administrator (770)528-8999

ROBERT G. HALVORSON
Court Reporter

SHIELA H. WALKER
Clerk (770) 525-2387

TRACIE GRABARKEWITZ
Administrative Assistant

To: Wanda Spann
From: Judge Frank R. Cox
Re: Clarification of Responsibilities
Date: March 5, 2003

The purpose of this communication is to document our conversation of February 28, 2003 in which we discussed concerns I have regarding the Pretrial Court Services Division.

First, I am encouraged with your change in heart involving the previous comments regarding the hostile work environment. I am determined to ensure that all employees working in this Court feel comfortable with their surroundings and if problems arise all employees need to be

assured they have a place to turn to discuss the issues. Decisions made by members of management aren't always welcomed by employees, but no employee should feel uncomfortable in their environment due to the same.

Some of the issues below were discussed on Friday. I regret time did not permit the opportunity to discuss all of them.

- Effective immediately Pretrial Court Services will no longer operate as an independent unit, but as a division of the Magistrate Court. You will continue in your roll as Director running the day-to-day operation, but I will require a more hands on approach.
- You will report direct to the Chief Judge. The Pretrial Director's position will parallel that of the Court Administrator's position on the Court's organizational chart.
- As Director, you will be expected to attend all staff meetings as any other manger of the Court.
- I will review all phases of the budget prior to the submission of the documents to the Budge Office.
- No communication of a business nature will be sent to the County Manger or the Board of Commissioners without my approval and or signature. (This will allow us to prioritize the requests made of the Board and County Manager by this Court.)

- All matters regarding the office space or renovation of the same will fall under the authority of the Court Administrator.
- Effective immediately, you no longer have the authority to hire, fire or discipline employees. In keeping with all divisions of this Court, the Court Administrator will oversee matters of this nature.
- The Magistrate Court's human resources representative will being immediately processing all personnel related matters regarding the Pretrial Division.
- Payroll for Pretrial employees will be distributed along with that of all other Magistrate Court employees.
- In keeping with all other divisions, reports generated in conjunction with Pretrial's payroll will be kept by the Court Administrator.
- In keeping with all other divisions, all personnel files for the Pretrial Division will be maintained by the Court Administrator. Existing files should be turned over immediately.
- All members of the Pretrial Division will be advised that although assigned to the Pretrial Division, they are employees of the Magistrate Court and as such are afforded the opportunities of all other employees, i.e., a sounding board for employee concerns or other issues.

- Employees will refer to other employees by their given names. No manager will require employees under their supervision to refer to them by their formal name, i.e., Mr. or Mrs. Jones. (This creates an unnecessary distance between manager and employee within an office of this size.)
- Before accepting invitations to speak on behalf of your position, please discuss the matter with me. I may elect to accompany you to some events. (This again is the same policy in place for all management.)
- All training/travel requests (which involve expenditures) must be submitted to me for consideration and or approval.
- To encourage personal, as well as professional growth of all employees, a goal was set for all Magistrate employees to receive a satisfactory of above performance evaluation for 2003, employees must attend at least two job related training courses during the year. Cobb County's On Track for Training provides a variety of classes and most ar at no cost to the department or the employee. This policy is to be implemented for all employees, including those assigned to the Pretrial Division. (For specific information regarding this requirement, please contact the Court Administrator.)
- Upon employment with this office, all employees will receive a copy of the Magistrate Court Policy

Manual. (This manual is provided in addition to the Cobb County Employee Handbook.)

- Effective immediately all members of the Pretrial division will be required to use the TimeCare System. (Please contact eh Court Administrator regarding specific information involving this process.)
- All divisions of the Court will be required to use a standard form of letterhead. One of the purposes behind this requirement is to eliminate the printing cost associated with this inventory. (Please contact the Court Administrator regarding this matter.)

I will be meeting with all employees of Pretrial Division during the next several days to apprise them of the above changes.

I look forward to working with you to improve morale within the division. I know you and I both want the division to continue to perform in a productive manner. Thank you for your commitment to that end.

bcc: Mr. David Hankerson, County Manager
Mrs. Debra Dance, Assistant County Attorney

cc: Mr. Tony Hagler, Director Human Resources
Mrs. Bobbie C. Ely, Court Administrator

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

WANDA SPANN, and
CHARLES SPANN
Plaintiffs, CIVIL ACTION
FILE

FILE

NO: 07-1-03371-18
vs.

COBB SUPERIOR COURT JUDGES:
JAMES BODIFORD, ROBERT FLOURNOY III,
ADELE GRUBBS, S. LARK INGRAM,
GEORGE KREEGER, KENNETH NIX,
DOROTHY ROBINSON, MARY STALEY, and
MICHAEL STODDARD;
MAGISTRATE FRANK COX, in his OFFICIAL
)CAPACITY as CHIEF JUDGE OF
THE COBB COUNTY MAGISTRATE COURT
& in his INDIVIDUAL CAPACITY;
SUPERIOR COURT ADMINISTRATOR
HOWARD CHESSHIRE; and COBB COUNTY
MANAGER DAVID HANKERSON
Defendants,

AFFIDAVIT of WANDA SPANN for SUMMARY JUDGMENT HEARING

1. My name is Wanda Spann. I am over the age of 18 and competent to testify. The facts set forth in this affidavit are based upon my personal knowledge.

2. The genuine issues of material facts are detailed in the paragraphs below. If this court will allow witnesses to be subpoenaed, introduced, examined and cross-examined, expected testimony is as follows:

3. On June 7, 1983, I was appointed Director of Cobb County Pretrial Court Services by the Cobb County Superior Court Judges Council under the authority of a local Cobb Superior Court Order which established the Pretrial Services office in 1973.

4. On July 1, 1985 the Uniform Superior Court Rules of Georgia were promulgated by the Georgia Supreme Court. At that time, these Rules were adopted by the Cobb County Superior Court, and I was reaffirmed as director of Pretrial Services by the Superior Court Judges pursuant to these Rules, which have statewide application.

5. Under Uniform Superior Court Rule 27.1, my duties and appointment are described in full detail. (See Exhibit 1) Rule 27.1 states: "The Superior Court Judges under whose authority the program shall function, shall appoint a director, setting the qualifications deemed necessary for the office". This rule goes on to state, "the director shall hold office at the pleasure of the Superior Court Judges".

6. On or about May 22, 2003 after serving in my position 20 years with an unblemished employee performance record, I was terminated from my position as

Director of Pretrial Services by Chief Magistrate Judge Frank Cox. Judge Cox, the Chief Magistrate Judge since 2001, tortiously interfered with my employment by firing me when he had no authority or legal basis to do so. In the 20 years I served as director, no Superior Court Judge had ever advised me of the transfer of any hiring or firing authority of the Chief Magistrate Judge. My office was not a part of the Magistrate Court during my entire service and had absolutely no connection to Magistrate Court. The Magistrate Court did not control the budget of my office, and we were not a part of the Magistrate Court's Staff. I attended no staff meetings regarding the operations of Magistrate Court. The Pretrial Services Department is an independent department which functions under the authority of the Superior Court Judges. Judge Cox admitted to me during an oral deposition that he made Pretrial Services a division of his court upon my termination or shortly thereafter. He also told me during the same deposition he fired me and placed the department under Magistrate Court under authority given to him in a local order dated October 24, 1985. (See Exhibit 2)

7. I was aware of the 1985 order and had been for many years, however the order did not give the Chief Magistrate Judge the authority to hire and fire the Pretrial Director, nor did it place Pretrial Services under the Magistrate Court.

8. I have personally researched whether or not authority was transferred, from the Superior Court Judges to the Chief Magistrate and found it was not. The State Attorney General has also said that compliance with Uniform Superior Court 1.2 (B) is required for Rule deviations. Rule 1.2 (B) states, "Each Superior Court by action of a majority of its judges (or failing this, by action of its Chief Judge), from time to time may propose to make and amend rules which deviate from the Uniform Superior Court Rules provided such proposals are not inconsistent with the Georgia Civil Practice Act, general laws, these Uniform Superior Court Rules, or any directive of the Supreme Court of Georgia. Any such proposals shall be filed with the clerk of the Supreme Court, proposals so admitted shall take effect 30 days after approval by the Supreme Court. It is the intendment of these rules that rules which deviate from the Uniform Rules be restricted in scope."

9. In 2004 the Clerk of the Georgia Supreme Court told me there was no record of any filings or approval for Rule changes for Cobb County. (See Exhibit 3). She then gave me documentation confirming her statement.

10. I met with the Supreme Court Clerk again in 2005 to determine whether or not the 1985 order had been filed and approved by the Georgia Supreme Court,

and again I was told it had not been filed. The clerk later forwarded a letter to me stating, the Court wants to maintain their policy of certifying only what they have. (See Exhibit 4)

11. Moreover, I have personally researched and discovered that the referenced 1985 order (a local order which deviates from the Uniform Superior Court Rules), expired automatically on December 31, 1994, pursuant to Uniform Superior Court Rule 1.1. (See Exhibit 5) Rule 1.1 (Repeal of local Rules) states: All local rules of the superior courts except those relating to drawing of jurors by mechanical or electronic means pursuant to OCGA 15-12-40(b) and 15-12-42(b) et seq. shall expire effective December 31, 1994. If any superior court by action of its judges (or failing this, by action of its chief judge) proposes to prevent any local rule from expiring pursuant to Rule 1.1 then a proposal to prevent the local rule from expiring must be presented to the Supreme Court for approval 30 days prior to the expiration date as stated in Rule 1.1. Only those rules reapproved by the Supreme Court on or after December 31, 1994, shall remain in effect after that date. Rules timely resubmitted shall remain in effect until action by the Supreme Court. Again, the 1985 order Magistrate Judge Cox used to terminate me was ineffective, because it expired 9 years prior to my termination. Judge Cox

tortiously interfered with my employment by firing me on an illegal, expired, and unapproved document.

12. I have personally spoken to Cobb Superior Court Judges (Defendants in this case) on the authority issue. In March 2003, a sitting Superior Court Judge advised me that they (the Superior Court Judges) never, "Abdicated authority" over Pretrial to the Magistrate Judge. The same Judge told me Howard Chesshire told Judge Cox he had authority, but the Judge said Judge Cox did not have authority. Another sitting Superior Court Judge telephoned me at my home urging me to, "enjoy your vacation", because, "he can't fire you". This call came one day after Judge Cox placed me under suspension so that he could conduct, "an investigation" into so-called, "personnel related matters" in my office.

13. During the suspension, I spoke via telephone to a former Cobb Chief Magistrate Judge who served in the position 6 years. He told me the following: I have always viewed Pretrial as an independent department functioning under the authority of Superior Court. When I asked him if there were any orders in existence which gave the authority of Pretrial Services to the Chief Magistrate Judge, he said, "No. If this were the case, you and I would have sat down and talked about it". Also, after my termination I had a telephone conversation with the Chief

Magistrate Judge who succeeded the aforementioned individual. This Chief Magistrate had served in the position approximately two years and had previously served as a full time Magistrate since the inception of Magistrate Court in 1985. He referred to the 1985 order saying, "It's not worth the paper it's written on".

14. Judge Cox's memorandum to me dated March 5, 2003, further proves that the department was not under the umbrella of Magistrate Court. (See Exhibit 6) In the memo, Judge Cox stated, "Effectively immediately Pretrial Services will no longer serve as an independent unit, but as a division of Magistrate Court."

15. Acting without legal authority and in a clandestine fashion, Judge Frank Cox conspired with other individuals and orchestrated a wrongful and malicious plan to take my job. In the year 2000 after Judge Cox was elected and before he took office, I was told by two Magistrate Court employees that Judge Cox was after my job.

16. I paid approximately $850.00 for a copy of the, "Investigation" of me and its conclusion. I learned that the March 5, 2003 memo I received from him, came one day after Judge Cox had Information Services technicians to download a letter from my office computer that I was in the process of writing and sending to two Superior Court

Judges advising them of his harassment of me. This download was done without my knowledge or consent. One day after I sent these letters, Judge Cox presented me with the aforementioned memo, stripping me of my authority and taking away the bulk of my duties, giving them to Bobbie Ely the Magistrate Court Administrator--and individual with even less authority over me and the Pretrial Services' office than Judge Cox. Documents related to the download of the letter to the two Superior Court Judges are attached. (See Exhibits 7,8,9)

17. I would later learn, after he terminated my employment, that he requested the download of my entire computer hard drive in search of documents on March 5, 2003. (See Exhibits 10 and 11) To this day, I do not know what he was looking for.

18. After my termination, I learned that in December 2002, Bobbie Ely, the Magistrate Court Administrator, requested a list of former employees who left the Pretrial department in the last 5 years. Again, this was done without my knowledge. (See Exhibit 12)

19. I learned through their investigation documents that Judge Cox and Bobbie Ely had acted secretly and in concert with two employees of Pretrial Services from my clerical staff, Janet Lindemann and Anita Lingerfelt. These women were providing Judge Cox and

Bobbie Ely with notes containing trivial and untrue statements. (See Exhibits 13, 14, 15, 16, 17, 18) Anita Lingerfelt and Janet Lindemann reported to Judge Cox and Bobbie Ely that my husband, (Plaintiff Charles Spann) and I had searched Lindemann's office while she was out of the office on sick leave. (See Exhibit 19) This was a lie. The false statement resulted in my husband Charles Spann, being placed under internal investigation by his department, Cobb County Police Department. He was investigated and cleared of any wrongdoing. Both Lindemann and Lingerfelt received promotions after my termination.

20. I was unaware that Judge Cox and Bobbie Ely were communicating with these women behind my back, but had been experiencing problems with Janet Lindemann for several weeks. Lindemann, an 8 month probationary employee, had all of a sudden become hostile towards me and my middle manager Mattie Armbruster. I had given her verbal warnings about it, but her hostility continued to escalate.

21. On the morning of March 19, 2003, two days after she had called in sick, Lindemann became verbally abusive to me in the doorway of my office as I sat at my desk. I fired her. Later that afternoon, I was called to Judge Cox's office and placed under suspension and

"internal investigation". Judge Cox allowed Lindemann to return to work the next day and placed her in charge of the department.

22. During an oral deposition, Judge Cox admitted he had communicated with Lindemann while she was at home sick. During their communication, according to the documentation, Judge Cox wanted to know how long Ms. Armbruster had been a manager. During the oral deposition, I asked Judge Cox why did he not ask me about Armbruster and that I would have told him if he had asked. He said he wanted the information, "independent" of me. Judge Cox was creating hostility within my office behind by back.

23. During the suspension, Ely and County Attorney Debra Dance searched my office. Again to this day, I do not know what they were looking for. Evidence of these searches are contained herein. (See Exhibits 20,21)

24. Judge Cox even had the Cobb County Sheriffs Department to provide him with a computer print-out indicating the dates I entered my work building, and the times I left. Further, he had copies made of an airplane ticket and travel itinerary where I had attended a National Pretrial Services Conference in 2002. A copy was also made of my travel expense report. (See Exhibits 22, 23) I had done nothing wrong, and I do not know why this would have been of interest to Judge Cox.

25. Judge Cox's actions show that he was looking for something or anything to fire me for even though he did not have the authority to do so. Judge Cox even tried to use the medical records of a retired employee, with whom I had worked for 23 years. The employee Belinda Brock and I were very close friends and had been for years. Belinda's daughter Tracie Grabarkewitz was employed as Judge Cox's administrative assistant.

26. For many years Belinda told me she suffered from depression resulting from childhood issues and decisions she made as an adult. Judge Cox sought her medical records in an effort to make it appear that I had caused her depression. (See Exhibit 24) He would later use her situation to make it appear I had been, "abusive" to employees. The truth is that I was a sounding board for Belinda Brock practically every morning for 20 years. Attached is a letter from Mrs. Brock to me which shows she confided in me. (See Exhibit 25) Judge Cox even admitted to me during his deposition that he learned after my termination, Mrs. Brock's problems were not caused by me. However my job was taken on this falsehood. Tracie Grabarkewitz, Belinda Brock's daughter was also promoted after my termination.

27. Judge Cox stated he suspended me on March 19, 2003 because I fired Janet Lindemann after he instructed me not to fire anyone. Hiring and firing Pretrial

employees were part of my job duties according to the Uniform Superior Court Rules. Judge Cox showed no documentation to me from the Superior Court Judges that indicated otherwise. The fact of the matter is that Judge Cox had already planned to take my job before he placed me under internal investigation after I fired Lindemann on March 19. As of March 18 he was already conducting this clandestine surveillance or "inquiry". (See Exhibit 26) The fact is that Judge Cox has a history of this type of misconduct. Previously, he placed a full-time Magistrate Judge under secret surveillance by instructing his secretary, Tracie Grabarkewitz, to keep track of that Judge's "goings and comings". When I questioned him about this during his oral deposition, he admitted that he had done this.

28. Defendant Howard Chesshire also acted in concert with Judge Cox by filing a false affidavit in Federal Court, stating the authority of Pretrial Services had been transferred to the Magistrate Court under Rule 1.2(B) when in fact it had not. (See Exhibit 27) Furthermore in his affidavit Chesshire stated that Pretrial Services had not had an administrative relationship with Superior Court Judges since 1985. This was also an untrue statement. Throughout my directorship, there had always been an administrative relationship between the department and the Superior Court Judges.

29. Defendant David Hankerson was also a part of this effort when he abolished my position. He received a blind copy of the March 5, 2003 memo from Judge Cox the day prior to it being given to me. He also allowed department managers working under him to take unauthorized actions such as transferring my department's payroll, budget, and purchasing responsibilities to Judge Cox. I received first hand information from one of these managers who said Hankerson instructed: "Do everything he (Cox) tells you to do, but make sure you cross all of your "T's" and dot all of your "I's".

30. I have always conducted myself in a professional manner and was therefore able to retain my employment for 20 years as Pretrial Director. These claims made by Judge Cox were false, and smeared my employment record and reputation. Judge Cox used a local document that expired 9 years prior to carry out his own misconduct, including unlawfully and tortiously interfering with my employment, benefits and my retirement.

31. I submit to this court there are genuine issues of Material facts in this case, and therefore summary judgment should not be granted in favor of defendants Cox, Chesshire, and Hankerson.

The Genuine Issues of Material Facts are:

(1) Judge Cox acted without legal authority per Uniform Superior Court Rules 27.1, 1.2(B), and 1.1 of the Georgia Supreme Court.

(2) Judge Cox conspired with other individuals to take my employment through wrongful, unwarranted conduct and clandestine efforts.

(3) Judge Frank Cox, Howard Chesshire, and David Hankerson were all strangers to my employment.

I declare under penalty of perjury that the within and foregoing is true and correct:

Sworn and signed: This 15 Day of October, 2007.

"s/" Wanda Spann

"s/"Cherry Godfrey

Notary Public Cobb County State of Georgia. My Commission Expires Aug 26, 2010

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

	)	
	)	
	)	
WANDA SPANN, and	)	
CHARLES SPANN	)	
Plaintiffs,	)	CIVIL ACTION FILE
vs.	)	FILE NO:
	)	07-1-03371-18
	)	
	)	

COBB SUPERIOR COURT JUDGES:
JAMES BODIFORD, ROBERT FLOURNOY III,
ADELE GRUBBS, S. LARK INGRAM,
GEORGE KREEGER, KENNETH NIX,
DOROTHY ROBINSON, MARY STALEY, and
MICHAEL STODDARD;
MAGISTRATE FRANK COX, in his OFFICIAL
CAPACITY as CHIEF JUDGE OF
THE COBB COUNTY MAGISTRATE COURT
& in his INDIVIDUAL CAPACITY;
SUPERIOR COURT ADMINISTRATOR
HOWARD CHESSHIRE; and COBB COUNTY
MANAGER DAVID HANKERSON

Defendants,

AFFIDAVIT of CHARLES ANTHONY SPANN JR for SUMMARY JUDGMENT HEARING

32. My name is Charles Anthony Spann Jr. I am over the age of 18 and competent to testify. The facts set forth in this affidavit are based upon my personal knowledge.

33. I am a retired Cobb County Police Officer after 25 years and 10 months of dedicated service to the citizens of Cobb County, and am presently a law enforcement officer for a local Cobb jurisdiction.

34. My attachment to this lawsuit in not solely because Plaintiff Wanda Spann is my wife. The genuine issues of facts are detailed in the paragraphs below. If this court will allow witnesses to be subpoenaed, introduced, examined and cross-examined, expected testimony is as follows:

35. All the Defendants are strangers to my employment; however, the County Manager known by me over a 25 year period to be David Hankerson was legally named Willie David Jones, at the time of the incidents stated below. According to legal papers, his name was changed from Willie David Jones to David Hankerson in

Cobb County in the year 2005. (See Exhibit 1) This knowledge is made known so that judgment is not ruled against Plaintiffs by default for using the legal name of the defendant at the time of filing that was different during the times spoken of in the following paragraphs. For the purposes of this document, I will refer to him as David Hankerson, County Manager, Defendant, or a combination of the two.

36. Magistrate Frank Cox a stranger to my employment conspired against me with County Attorney Deborah Dance to damage my good standing because of the situation with my wife Wanda Spann.

37. In 2001, I was approached by an employee of the Cobb County District Attorney's Office and was told Frank Cox was after my wife Wanda Spann's job, and to watch out for him.

38. In a memo to, "File" from Deborah Dance dated April 4, 2003, Judge Cox suggested she inquire why charges of my son were reduced and who contacted the Assistant District Attorneys to cause this action. I had no contact with anyone in the District Attorneys Office about this matter, nor did I have anyone contact them on my behalf. This matter is unethical because it was totally unrelated to my job. I believe this was done in an attempt to damage my employment career. (See Exhibit 2)

39. I was also accused of searching the office of Janet Lindemann by Anita Lingerfelt. Both of whom conspired with Judge Cox against Plaintiff Wanda Spann. I was called into the office of Lt. Schaefer (my supervisor) and asked about this matter. I told him that I was visiting my wife (Plaintiff Wanda Spann) in her office when property management came to change the lights in her office based on an earlier request she had made. Ms. Lindemann's office was vacant because she was out sick, so we went into the office for approximately 5 minutes until the lights were replaced. Afterwards we returned to Wanda Spann's office. The work order was confirmed by Lt. Schaefer.

40. My employment record was further damaged when I was investigated for talking to Judge Mary Staley. The circumstances are as follows. In September 2003, I arrived home to find my wife Wanda Spann distraught over her termination. She told me as she had on several occasions it was a violation of due process that she had not been allowed to explain her side of the story to the Superior Court Judges. Feeling her anguish, I went back to the Square of Marietta in hopes of talking to Judge Ken Nix about the matter. I was reaching out to Judge Nix because he expressed to me how great a job Wanda had done for the Superior Court Judges. This conversation took place at the State Capitol by chance. I

was there for a joint session with the Georgia Child Fatality Review Panel, of which I was Co-Chair, and other child advocacy organizations. He approached me after seeing me in the crowd. This occurred prior to any known investigation of Wanda Spann. As I approached the Square of Marietta, I called his office to see if he were available. There was no answer. I continued to drive around praying and asking God to help me. After driving around for over 30 minutes, I saw Chief Judge Staley walking on Dallas Highway near Kennesaw Mountain Park. I felt this was an answer to my prayers.

I waved to her and turned around to talk to her. I called out to her and she returned to my vehicle. I remained in my vehicle and she stood near my window. She told me she would shake my hand, but they were sweaty from her walking. I told her I understood and began to tell her about Wanda's situation and that all she wanted to do was to tell her side of the story to the Superior Court Judges. She appeared to be sympathetic to my pleas that lasted no more than five minutes. I thanked her for her time and we both left. I left with a feeling that my prayers had been answered.

The next day I was shocked when I was called into Major Bill Mull's office and he told me that he and Director Lloyd had received a complaint alleging I had threatened Judge Staley. Major Mull was also my supervisor and the

commander of Internal Affairs. I told him about my meeting with Judge Staley and in no way did I threaten her. I also told him that there was a vehicle with a man and his dog approximately 15 feet from my vehicle. He advised me I should not make any contact with any of the persons involved in my wife's situation. He also told me he and Director Lloyd stood behind me. When they spoke to Judge Staley, she then told them she did not feel threatened while talking to me. Major Mull said County Attorney Deborah tried to get him to conduct a, "Fitness for duty" investigation on me, but he would not. He said he felt I was fit for duty. A fitness for duty investigation would have further damaged my career.

It is my belief that further evidence of conspiracy will be revealed during a trial when witnesses' testimony is introduced, examined and cross-examined.

I declare under penalty of perjury that the within and foregoing is true and correct:

Sworn and signed: This 15 Day of October, 2007.

"s/" Charles A. Spann Jr.

"s/"Cherry Godfrey

Notary Public Cobb County State of Georgia. My Commission Expires Aug 26, 2010

UNIFORM RULES – LOCAL RULES, SUPERIOR COURTS, STATE COURTS

APPROVAL DATE	JUDICIAL CIRCUIT
6/20/85	Stone Mountain
6/20/85	Northern
6/20/85	Southern
6/20/85	Atlanta
7/8/85	Augusta
7/8/85	Mountain
7/8/85	Southwestern
7/11/85	Tallapoosa
10/3/85	Atlanta
10/18/85	Alcovy
10/21/85	Atlanta
1/7/86	Griffin
3/19/86	Clayton

State Court of Fulton County

State court of Fulton

County

Stone Mountain

Atlanta

Fulton County – Atlanta

State Court of Fulton County

Dekalb Superior

Dekalb State Court

Dekalb Superior

Dekalb State Court

CLERK'S OFFICE ATLANTA,

I certify that the above is true extract from the minutes of the Supreme Court of Georgia.

Supreme Court
State of Georgia
STATE JUDICIAL BUILDING
Atlanta,30334
NORMAN S. FLETCHER, CHIEF JUSTICE
LEAH WARD SEARS, PRESIDING JUSTICE
ROBERD BENHAM
CAROL H. HUNSTEIN
GEORGE H. CARLEY
HUGH P. THOMPSON
P. HARRIS HINES
JUSTICES

SHERIE M. WELCH, CLERK
WM. SCOTT HENWOOD, REPORTER

June 16, 2005

Wanda S. Spann
2838 Crestwicke Drive
Kennesaw, GA 30152

Dear Ms. Spann:

The Justices have reviewed you document. The Court wants to maintain our policy of certifying only what we have, therefore, I am returning your document to you.
Sincerely,

"s/" Sherie M. Welch, Clerk

SMW/mh
Enclosure